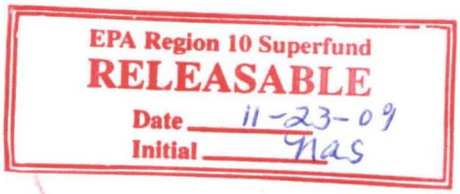
Foss Maritime Response to EPA's 104(e) Information Request

Entire response Releasable



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CONFIDENTIAL BUSINESS INFORMATION

U.S. EPA

CERCLA SECTION 104(e)

INFORMATION REQUEST

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Please note: This Information Request includes instructions for responding to this request and definitions of words such as "Respondent," "Property," "Material," "Identity," and "Investigation Area" used in the questions. Please provide responses to all the questions in this Information Request for each Property identified in response to Question 4 of Section 2.0, when appropriate. You must answer the Questions in this Information Request related to properties or facilities outside the Investigation Area if Question 4, Section 2.0 specifically instructs you to do so. For each response clearly identify the Property or Properties to which the response applies.

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EXECUTIVE SUMMARY

While all of the information presented in this executive summary can be found in the responses to EPA's requests below, Brix Maritime Co. ("Brix") presents this executive summary to assist EPA in its efforts to understand Brix's activities within the Portland Harbor Superfund Site Investigation Area. ("Portland Harbor").

BRIX MARITIME CO.

The information requests to which these responses pertain were addressed to Brix Maritime Towing Company, Inc. There no longer exists any entity named "Brix Maritime Towing Company, Inc." Brix Maritime Towing, Inc., was merged into Brix Maritime Co. in 2007. Insofar as the request invokes Foss Maritime Company ("Foss"), Brix refers EPA to Foss's 104(e) response, submitted pursuant to a separate set of requests addressed to Foss. Brix's responses below are submitted on behalf only of itself and not any of its corporate parents, sister companies or subsidiaries.

INTRODUCTION

Brix Maritime Co. ("Brix" or "Brix Maritime") has conducted limited activities[1] in and around Portland Harbor for many years. For most of its corporate history though, until the late 1970s (discussed in further detail below), Brix (and its predecessors) did not even have a base in the Investigation Area.

Brix (like its corporate predecessors) is in the business of transporting products, providing river barging services and ocean towing services. Brix and its corporate predecessors have never manufactured or processed raw materials.

Anecdotal accounts from current Brix employees with pertinent historical knowledge of Brix's business indicate that the Brix family began building its business in the early twentieth century, in Knappton, Washington, on the Washington side of the Columbia River. The Brix family's first significant business endeavor was a sawmill operation based in Knappton, Washington. The Brix family acquired equipment to support the sawmill, including several towboats. The sawmill's business was deeply impacted by the Great Depression, but did not halt entirely until the mid-1930s, after the mill burned down. Without the resources to rebuild the mill operation, the Brix family turned to its towboats. Members of the Brix family incorporated Knappton Towboat Company in Washington in or about 1920.

Over time, Knappton Towboat expanded its business activities to the Willamette River. In or about the early 1960s, Knappton Towboat Company purchased a property at 110 S.E. Caruthers

[1] "Activities" is used here and elsewhere in this executive summary as a lay term, and not as a legal term of art.

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St., Portland, OR 97214, outside the Investigation Area. In the late 1970s, Knappton Towboat Company began to develop the 9030 NW St. Helens Road, Portland, OR 97231 location (the "Property") before relocating there.[2] (This is the only Property Brix owns within the Investigation Area.) At this time, Knappton Towboat Company did not yet own the Property. In fact, Brix did not acquire the Property until 1993. Before then, neither Brix nor any of its corporate predecessors had ever owned the Property. Interviews of Brix employees and searches of Brix's archived documents did not turn up any specific information regarding the nature of the rights pursuant to which Knappton was allowed to develop and begin using the Property in the 1970s.

At around the same time it began to develop the Property, Knappton Towboat changed its name to Knappton Corporation ("Knappton WA").[3] Soon after that, at around the time Knappton WA relocated to the 9030 NW St. Helens Road property, it conveyed the 110 S.E. Caruthers St. property by warranty deed to the Louisiana-Pacific Corporation.[4]

Brix understands, based upon interviews it conducted, that Knappton WA's activities at the 9030 NW St. Helens Road address (and at the Caruthers Street Property before that) largely consisted of administrative activities which included typical office administrative functions, such as human resources, sales, and payroll and operational functions which included tug mooring, minor tug maintenance, tug fueling, dispatch and crew rotation.[5] All major vessel maintenance, including any maintenance requiring that a vessel be out of the water, was performed at a different property outside the Investigation Area, typically in Rainier, Oregon.

According to interviews of Brix employees who have been with the company throughout its time at the Property, the mix of administrative and operational activities taking place there has not changed since the Property was developed in the late 1970s even though the lines of business engaged in by Brix and its corporate predecessors have changed over time.

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[2] Interviews of Brix employees and searches of Brix's archived documents turned up only a small amount of information about this early period in Brix's corporate history which did not permit Brix to develop an exact timeline of the sequence of these events.

[3] Interviews of Brix employees and searches of Brix's archived documents turned up only a small amount of information about this early period in Brix's corporate history which did not permit Brix to develop an exact timeline of the sequence of these events.

[4] Interviews of Brix employees and searches of Brix's archived documents turned up only a small amount of information about this early period in Brix's corporate history which did not permit Brix to develop an exact timeline of the sequence of these events.

[5] "Operational" is used here in its lay sense of "relating to productive or industrial activity," and is not used as a legal term of art.

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ARTHUR A. RIEDEL & PETER J. BRIX

By the mid-1970s, there was a business relationship between Arthur A. Riedel and the Brix family. At various times, Mr. Riedel and/or one of the corporate entities he was affiliated with held shares in Brix and its predecessors. Mr. Riedel also served as a director of Brix at least once, between October 31, 1990, and December 28, 1992.

Mr. Riedel was a prior owner of the Property, acquiring it in 1973. In 1981, Mr. Riedel transferred the Property to himself and the Siegfried Company, a general partnership "consisting of Arthur A. Riedel and Peter J. Brix." The Siegfried Company and Mr. Riedel held title to the Property until September 1993, when it was transferred by statutory warranty deed to Brix Maritime. Thus, Mr. Riedel owned the Property when Knappton WA began developing it.

Additionally, Mr. Riedel and/or one of his companies performed services, including consulting services, for Brix, although it is unclear what those services were.

TWIN CITY BARGE, INC.

In the early 1980s, Knappton WA merged into a new Delaware corporation, also called Knappton Corporation ("Knappton DE"). Knappton DE was a wholly-owned subsidiary of Twin City Barge, Inc., a Delaware corporation. After the merger, Mr. Brix continued to run Knappton DE. Twin City Barge filed a Chapter 11 plan of reorganization in or about September 1987 and proposed to reorganize around Knappton DE, its sole financially-viable subsidiary. The reorganization plan was approved in November 1987. Twin City Barge then obtained permission to do business in Oregon and changed its name to Brix Maritime Co. In early 1989, Knappton DE merged into Brix Maritime.

According to interviews of Brix's long-time employees, the Twin City Barge merger and reorganization had no effect on Knappton DE's activities at the Property.

THE 1993 ACQUISITION OF BRIX BY FOSS

In 1993, Brix was acquired by Foss Maritime Company ("Foss"), a Washington corporation. After the acquisition, Brix registered "Foss Maritime Company" as an assumed business name.[6] Under this registration, Brix conducts business in Oregon using the Foss Maritime Company name. Brix prominently displays the Foss name on its vessels, its buildings, and its stationery pursuant to this registration. However, Brix Maritime and Foss Maritime are separate companies with separate corporate existences.

[6] According to Or. Rev. Stat. §§ 648.005 and 648.007, an assumed business name registration is required any time a business uses a name that is not the real and true name of the business. See attached 00005377; BRIXINHOUSE004875.

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ENVIRONMENTAL HISTORY

According to interviews of Brix employees who have been with the company throughout its time at the Property, Mr. Brix and Brix's employees treated the river and the land with care and respect. Many of Brix's employees had grown up on or near the river and saw it as their duty to protect this resource upon which their livelihood depended. Brix's conscientious attitude towards the river has not changed since activities at the Property began. It was this attitude that led Brix's employees to be proactive in reporting sheens and foams on the river, even when they had not been attributable to the Property or to Brix's activities.

Brix is aware of no more than 30 spills or releases since 1990 (averaging less than two per year) for which there is some affirmative indication that (1) the spill occurred in the Investigation Area, and (2) the spill was somehow associated with (if not attributable to) the Property or Brix activities.[7] This number includes spills reported by Brix employees even though the spills were not attributable to the Property or to Brix's activities. The majority of the spills involved very small amounts (5 or less gallons) of oils or fuels. There is no evidence of a pattern of significant spills or releases by Brix or its predecessors. There is also no evidence that past spills or releases have contributed to contamination of the Willamette River.

[7] Brix's knowledge regarding these spills relies on data from multiple information sources. The accuracy of Brix's knowledge, therefore, is limited by the reliability of the source information. Where more than one source existed for a particular spill, Brix used its best efforts to reconcile any inconsistencies associated with the source information.

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GENERAL OBJECTIONS

Brix makes the following general objections to EPA's request for information. Brix's answers to these requests are made subject to and without waiving any of the following general objections, which are incorporated in each and every answer and response Brix provides:

1. Brix objects to EPA's Request for Information ("Request") to the extent that the terms used are overbroad, vague and ambiguous. Specifically, Brix objects to the Request's use of the term "operate" and its variants in diverse contexts, each of which may require a different meaning of the term. In an effort to respond completely and accurately to EPA's Request, Brix assumes "operate" means "to manage, direct or conduct activities specifically related to leakage or disposal of hazardous waste or to compliance with environmental laws or regulations." *See, e.g., U.S. v. Bestfoods*, 524 U.S. 51, 66-67 (1998). Similarly, Brix objects to the use of the terms "arrange," "transport," "generate," "dispose," "release," "manage," "facility" and "affiliate" in the Request as overbroad, vague and ambiguous. *See, e.g., Pakootas v. Teck Cominco Metals, Ltd.*, 452 F.3d 1006 (9th Cir. 2006) (acknowledging ambiguity in the term "arranger" under CERCLA); *see also U.S. v. Burlington Northern & Santa Fe Ry. Co.*, 520 F.3d 918, 948 (9th Cir. 2008) (discussing multiple definitions of "arranger" under CERCLA).

2. Brix objects to the use of the terms "control" and "actual control" as overbroad, vague and ambiguous.

3. Brix objects to EPA's definitions of "waste," "material" and "business activities" as overbroad, burdensome, oppressive and as exceeding EPA's authority pursuant to Section 104(e).

4. Brix objects to EPA's definition of "period being investigated" and "relevant time period" as overbroad, burdensome, oppressive, and as exceeding EPA's authority pursuant to Section 104(e).

5. Brix objects to any Request that requires Brix to draw a legal conclusion. Brix notes that several terms contained within the Request have both general and legal meanings. In an effort to respond completely and accurately to EPA's Request, Brix, therefore, adopts, unless otherwise stated in the Response, the general, lay meaning of the terms "contractor," "agent," "discharge," "spill," "leak," "arrange," "transport," "generate," "dispose," "release," "manage," "facility," "affiliate," "use," "generate," "store," "treat," "handle" and their variants without waiving any defenses.

6. Brix objects to the Request to the extent the questions it contains are overbroad, unduly burdensome, oppressive, irrelevant and exceed EPA's authority pursuant to Section 104(e).

7. Pursuant to CERCLA Section 104(e)(7)(F) and 40 C.F.R. Part 2, subpart B, Brix objects to any Request which requires the production of any confidential business or financial

information until entry of a suitable confidentiality agreement/protective order restricting the use and dissemination of such information. Brix will cooperate with EPA in the preparation of such an agreement/order.

8. Brix objects to EPA's Request to the extent it requires disclosure of information protected by the attorney work product doctrine, attorney-client privilege or any other applicable privilege.

9. Brix objects to EPA's Request to the extent it seeks information not within Brix's possession, custody or control.

10. Brix objects to EPA's Request to the extent it attempts to expand the scope of persons or entities responsible for responding to the Request beyond that delineated by Section 104(e).

By responding to this Request, Brix does not waive any specific or general objections, whether or not such objections are reiterated in the answer to a given Question.

CONFIDENTIAL BUSINESS INFORMATION

INFORMATION REQUEST QUESTIONS
to Brix Maritime Towing Company, Inc. and Foss Maritime Co.

Section 1.0 Respondent Information

1. Provide the full legal, registered name and mailing address of Respondent.

Response:

Brix Maritime Co., a Delaware corporation
9030 NW St. Helens Road
Portland, OR 97231-1127[8]

The Respondent is Brix Maritime Co. ("Brix" or "Brix Maritime"), even though these requests were addressed to Brix Maritime Towing Company, Inc. There no longer exists any entity named "Brix Maritime Towing Company, Inc." Brix Maritime Towing, Inc. merged into Brix Maritime Co. in 2007 and the surviving entity is Brix Maritime Co.[9]

Brix and its corporate predecessors have conducted activities at the real property located at 9030 NW St. Helens essentially continuously since the late 1970s. Many of the requests propounded by EPA contemplate responses from Brix about Brix's corporate predecessors. Others contemplate responses pertaining only to Brix. Brix will provide information about its corporate predecessors as appropriate, as evidenced by the call of the particular request and to the extent Brix has such information or was able to elicit it in responding to these questions.

[8] See attached printout from Oregon Secretary of State's Corporations Division website 00015221-00015223, and September 16, 1994 Assumed Business Name Registration 00005377-00005378; *see also* BRIXINHOUSE004875.
[9] Certificate of Ownership and Merger August 22, 2007 00004820.

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2. For each person answering these questions on behalf of Respondent, provide:
   a. full name;
   b. title;
   c. business address; and
   d. business telephone number, electronic mail address, and FAX machine number.

Response:

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3. If Respondent wishes to designate an individual for all future correspondence concerning this Site, please indicate here by providing that individual's name, address, telephone number, fax number, and, if available, electronic mail address.

Response:

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Section 2.0 Owner/Operator Information

4. Identify each and every Property that Respondent currently owns, leases, operates on, or otherwise is affiliated or historically has owned, leased, operated on, or otherwise been affiliated with within the Investigation Area during the period of investigation (1937-Present). Please note that this question includes any aquatic lands owned or leased by Respondent.

Objections:

Brix objects to this Question on the grounds that it is vague, overbroad, unduly burdensome and exceeds EPA's authority pursuant to Section 104(e). Brix objects to the term "affiliated" as overbroad, vague and ambiguous. For the purposes of this response, Brix assumes that "affiliated" means a relationship wherein Brix has or previously had a degree of operational control over, or with respect to, property within the Investigation Area. Subject to and without waiving these objections or the General Objections, Brix provides the response that follows.

Response:

The Property

Brix owns property located at 9030 NW St. Helens Road, Portland, OR 97231 (the "Owned Property"), leases the aquatic lands immediately offshore, and subleases aquatic lands offshore from its immediate neighbor to the south (the "Property").[10] Hereinafter, unless otherwise specifically noted, Brix uses the term "Property" to mean the Owned Property and these Leased and SubLeased Aquatic Lands, collectively.

Pursuant to a 1979 agreement with Burlington Northern, Knappton WA was permitted to construct and maintain one 2-inch and one 6-inch water pipeline along the Railroad near the Property.[11]

With respect to the Leased Aquatic Lands immediately offshore from the Owned Property, the Oregon Division of State Lands ("DSL") has issued three lease agreements relating to the Property, covering the years 1980 to 1990 (ML-613-S),[12] 1990 to 2000 (ML-613) and 2000-2015 (ML-9230)[13] [14] Lease ML-613 governs "All state-owned

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[10] September 1993 Statutory Warranty Deed from Peter J. Brix to Brix Maritime Co. 00015224-00015233.
[11] See attached 00041972-0041975
[12] See attached Submerged and Submersible Land Lease ML-613 BRIX000~~748~~952 at BRIX000~~952000~~748-000958 and ML-613-S 00035407-00035412. See also Sep. 1, 1981 Ltr. re Lease 00035406.
[13] See attached Submerged and Submersible Land Lease ML-9230 BRIXINHOUSE001637-001652.

submerged lands in the Willamette River in Section 11, Township 1 North, Range 1 West, Willamette Meridian, Multnomah County, Oregon, more particularly described as follows:

> All state-owned submerged lands in the Willamette River in Section 11, Township 1 North, Range 1 West, Willamette Meridian, Multnomah County, Oregon, more particularly described as follows:
>
> Commencing at a point on the intersection of the Northwest line of Tax Lot 39 (Multnomah County Assessor's Map Number 2120) and the line of Ordinary High Water on the left bank of the Willamette River;
>
> thence riverward along a line perpendicular to the thread of the stream to the line of Ordinary Low Water and the TRUE POINT OF BEGINNING;
>
> thence continuing riverward along said perpendicular line a distance of 175 feet;
>
> thence upstream and 175 feet parallel to said line of Ordinary Low Water a distance of 510 feet, more or less, to a point which lies 175 feet riverward from the line of ordinary Low Water as extended perpendicular to the thread of the stream from a point which is the intersection of the southeast line of Tax Lot 39 (Multnomah County Assessor's Map Number 2120) and the line of Ordinary High Water;
>
> thence shoreward along said perpendicular line a distance of 175 feet to the line of Ordinary Low Water;
>
> thence downstream along said line of Ordinary Low Water a distance of 510 feet, more or less, to the TRUE POINT OF BEGINNING, containing 2.05 acres, more or less.

Lease ML-9230 [15]governs

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[14] These aquatic leases authorize a maintenance barge and tugboat and barge moorage. Lease ML-613 did not have substantial language regarding improvement, changes or waste management. Lease ML-9230, however, *does* have detailed restrictions on use, waste water disposal, and hazardous materials. These restrictions minimize any potential impacts to submerged lands and the water. Brix complied fully with such restrictions. No historical dredge or fill information for the site or vicinity are included in the DSL leases.

[15] 00041839-00041854.

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All state-owned submerged lands in the Willamette River in Section 11, Township 1 North, Range 1 West, Willamette Meridian, Multnomah County, Oregon, more particularly described as follows:

Commencing at a point on the intersection of the Southwest line of Tax Lot 39 (Multnomah County Assessor's Map Number 2120) and the line of Ordinary High Water on the left bank of the Willamette River;

thence riverward along a line perpendicular to the thread of the stream to the line of Ordinary Low Water and the TRUE POINT OF BEGINNING;

thence continuing riverward along said perpendicular line a distance of 175 feet;

thence upstream and 175 feet parallel to said line of Ordinary Low Water a distance of 510 feet, more or less, to a point which lies 175 feet riverward from the line of Ordinary Low Water as extended perpendicular to the thread of the stream from a point which is the intersection of the Northeast line of Tax Lot 39 (Multnomah County Assessor's Map Number 2120) and the line of Ordinary High Water;

thence shoreward along said perpendicular line a distance of 175 feet to the line of Ordinary Low Water;

thence downstream along said line of Ordinary Low Water a distance of 510 feet, more or less, to the TRUE POINT OF BEGINNING, containing 2.0489 acres, more or less.

With respect to the aquatic lands offshore from the property immediately to the south of the Owned Property, Brix has subleased these aquatic lands from the entity which holds the aquatic lease with DSL at the relevant time.[16] The sublease documents Brix has uncovered relating to these aquatic lands document that Brix has subleased these lands since at least 1989. It is possible, however, that Brix began to sublease those lands prior to 1989. After a diligent search, Brix was unable to find documentation confirming that it subleased these lands prior to 1989.

The sublease covers the following:

[16] 00041804-00041812; EPA-BRIX_DOCS002808-002810.

A parcel 50 feet by 200 feet described as follows:

The following portion of the property conveyed by JMLB Partnership; a Washington general partnership, to Stanley C. Wagner by deed dated November 10, 1987 and recorded November 13, 1987 in Book 2058 at Page 553 Multnomah County Oregon Records of Conveyances:

A tract of land situated in the Northeast quarter of Section 11, Township 1 North, Range 1 West of the Willamette Meridian, in Multnomah County, Oregon, described as follows:

Commencing at a brass cap set at the intersection of the north line of the W.W. Baker D.L.C. and the Northeasterly right of way line of the S.P. & S. Railroad (said right of way is 60.00 feet); thence South 40° 42' 25" East along said right of way a distance of 39.79 feet to a point or tangent curve; thence along the arc of an 11,429.16 foot radius curve to the left, through a central angle of 2° 39' 43", an arc distance of 531.00 feet (the long chord bears South 42° 02' 17" East a distance of 530.95 feet) to a point; thence North 53° 19' 15" East a distance of 382.01 feet to the Willamette River Harbor line, the point of beginning of this parcel; thence along said Harbor Line South 38° 15' 31" East, a distance of 200 feet to a point, thence South 53° 19' 15" West a distance of 50 feet to a point, thence North 38° 15' 3" West a distance of 200 feet to the westerly line of the Stanley C. Wagner property; thence North 53° 19' 15" East a distance of 50 feet to the point of beginning of this parcel as shown on drawing attached hereto as Exhibit B.

The leased and subLeased Aquatic Lands will be referred to as the "Associated Leased Aquatic Lands."

River Leases

As a provider of river barging and ocean towing services, Brix (and its corporate predecessors) have entered into leases along the Willamette River for moorage and other purposes ("River Leases"). According to longtime Brix employees, the majority of these River Leases were for log storage or for barge tie-offs where empty barges could be temporarily moored while awaiting assignment. The documents Brix has discovered relating to these River Leases confirm the anecdotal accounts.

As river traffic and business on the Willamette River has ebbed, so too has Brix's river business and the number of Brix's River Leases. As Brix's business focus has shifted away from the upriver business, Brix's institutional memory and corresponding documentation regarding all of the historical River Leases once held by it and/or its

corporate predecessors has faded. Accordingly, although Brix's diligent efforts have yielded some documentation regarding River Leases, the information is limited.

Nevertheless, Brix answers EPA's requests as to Brix's River Leases to the best of its ability and knowledge as follows.

T4 Spud Barge

Brix and its corporate predecessors have leased mooring space at the Port of Portland's ("Port") Terminal 4 ("T4") on North Lombard Street since at least 1979. Documents regarding Brix's lease of mooring space at T4 are attached.[17] Brix and its corporate predecessors used this mooring space solely to temporarily moor empty barges awaiting assignment.[18] This space was not used for loading or unloading activities. Brix employees who have been with the company throughout its time at the Property confirm that the nature of Brix's use of the mooring space at T4 has not changed over time.

The description of Brix's T4 mooring space has changed slightly between successive leases. In 1979, Knappton WA entered into a lease for the use of six dolphins over 1200 feet at Terminal 4. Knappton WA used the dolphins to temporarily moor barges holding commodities.[19] The lease was terminated in late 1981, and in 1982, the parties entered into a new lease with a five-year term. This new lease authorized the use of the six dolphins, as well as 2.43 acres of submerged land that the Port leased from the state of Oregon.[20] In 1987, another new five-year lease was executed at the end of the previous lease term. The 1987 lease authorized usage of the same 2.43 acres of submerged land.[21] In 1989, the lease was amended to authorize the use for log storage of an additional 1.14 acres of submerged land immediately to the south of the previously leased parcel of land.[22] In 1992, Brix and the Port entered into a new lease for five years that authorized the use of four dolphins and 2 parcels of land totaling 4.33 acres of land.[23] The 4.33 acres were in two parcels that were generally in the same location as the two previous parcels. In 2000, a new lease was entered for 3.013 acres. The parties to this lease were the Department of State Lands ("DSL"), the Port, and Brix. The leased parcel was one of the two parcels previously leased. Additionally, the 2000 lease authorized Brix to place a "spud barge" on the leased property for Brix use. The spud barge appears to have been placed on the leased property sometime in late 1999 or early 2000. Finally, in 2004, Brix

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[17] See 00040745-00041711; 00005099.
[18] See 00040899-00040901.
[19] See 00040899-00040901.
[20] See 00040845-00040861.
[21] See 00040800-00040814.
[22] See 00040836.
[23] See ~~BRIXDOCS~~ 00040745-40803.

entered into a lease and sublease with the Port. The sublease covered 2.44 acres of submerged and submersible land that the Port had leased from DSL. Brix leased from the Port two breasting dolphins and nine six-pile mooring dolphins. In addition, the 2004 lease corrected a discrepancy between the description of the lands covered by the Port's lease with the State and Brix's sublease with the Port.

Since about 1999 or 2000, Brix has kept a "spud barge" moored at T4. Brix elected to make use of a spud barge rather than replace dolphins[24] that Brix had previously used to tie off vessels at T4. The spud barge is a floating barge that is 36 feet wide and 208 feet long. It uses pipes as a means by which to moor itself. The pipes are located in wells at the bottom of the boat, and act as anchors when dropped to the riverbed. Since Brix placed the spud barge in this location, Brix's vessels have tied off to the spud barge rather than to dolphins.

Hereinafter, Brix will use the terms "Spud Barge" or "T4 Spud Barge" to refer to the mooring facilities and Brix's spud barge located at T4.

After a diligent search through its documents and after interviews of its employees, Brix has been unable to find any information indicating that Brix or its corporate predecessors conducted any activities that would be considered "operations" at the Spud Barge. Brix (like its corporate predecessors before it) only ties off empty barges at T4.

Brix's T4 lease is of state-owned submerged and submersible lands. Accordingly, Brix's current lease with the Port refers to DSL Lease ML 10506, the terms of which are incorporated into Brix's current lease with the Port. DSL Lease ML 10506 is an Exhibit to Brix's lease, which is attached to these responses.[25] Note that the aquatic lands lease covers more land than Brix's T4 lease with the Port. That lease describes the subject aquatic lands as follows:

> PARCEL 2 (LOWER STORAGE)
>
> All state-owned submerged lands in the Willamette River lying in Sections 2, Township 1 North, Range 1 West, Willamette Meridian, City of Portland, Multnomah County, Oregon, more particularly described as follows:
>
> Beginning at Point "A" as described in PARCEL 1, thence North 44° 22' 06" West a distance of 137.62 feet to the TRUE POINT OF BEGINNING for PARCEL 2;

[24] A dolphin consists of a group of piles driven into the river bed in a circular pattern and drawn together with wire rope. A dolphin is used when a single pile would not provide the desired strength.
[25] See 00041525-00041556 and 00041557.

Thence South 57° 50' 20" West a distance of 175.00 feet;

Thence North 32° 09' 40" West a distance of 300.00 feet;

Thence North 57° 50'20" East a distance of 175.00 feet;

Thence South 32° 09'40" East a distance of 300.00 feet to the TRUE POINT OF BEGINNING, containing 52,500 square feet (1.21 acres, more or less).

Total number of acres: 2.44 acres, more or less.

Historical River Leases

Brix has become aware of possible additional leases that it, Knappton WA, or Knappton DE historically entered into for properties within the Investigation Area. After a diligent search, Brix has discovered little documentary information about these historical leases. Anecdotal information is likewise inconclusive.

To the best of Brix's knowledge, the potential historical leases involving properties within the Investigation Area include:

- Log storage and barge mooring at St. Johns Forest Products (Brix could find no source documents for this lease);
- A lease with Time Oil Co. at the Linnton Dock for loading Time Oil fuel for delivery to ships (Brix could find no source documents for this lease);
- A lease of the Riedel "Red Dock" for use as a barge tie-off (lease documents are attached);[26]
- A sublease with McCormick & Baxter Creosoting for the use of submerged lands as a barge tie-off (lease documents are attached, including aquatic lease ML-615);[27]
- A moorage agreement with Schnitzer Steel Industries, Inc., for loading of barges (lease documents are attached, but Brix was unable to located the associated aquatic lease).[28]

[26] See attached 00041961-0041971.
[27] See attached 00041976-00041991.
[28] See attached 00041865-00041868.

CONFIDENTIAL BUSINESS INFORMATION

5. Provide a brief summary of Respondent's relationship to each Property listed in response to Question 4 above, including the address, Multnomah County Alternative Tax lot Identification number(s), dates of acquisition, period of ownership, lease, operation, or affiliation, and a brief overview of Respondent's activities at the Properties identified. Additionally, provide the aforementioned information regarding any Property which was or is owned by any affiliated entity, including, but not limited to the following:

a. Knappton Corporation;
b. Brix Maritime Co.;
c. Brix Maritime Towing, Inc.;
d. Brix Rafting & Sorting Co.;
e. Twin City Barge, Inc.; and
f. Arthur A. Riedel.

Objections:

Brix objects to this Question on the grounds that it is vague, overbroad, unduly burdensome and exceeds EPA's authority pursuant to Section 104(e). Brix objects to the terms "affiliation" and "affiliated entity" as overbroad, vague and ambiguous. For the purposes of this response, Brix assumes that "affiliation" means a relationship wherein Brix or the subject entity has or previously had a degree of operational control over or with respect to Property within the Investigation Area. Brix further assumes that "affiliated entity" means a corporation or other legal entity that is related to Brix by some degree of operational control. Brix further objects to the Question to the extent that it assumes that Brix is or was "affiliated" with the entities named in parts (a) through (f), and because it assumes that Brix has responsive knowledge or information about the activities of those entities. Subject to and without waiving these objections or the General Objections, Brix provides the response that follows.

Response:

The Property

Brix and its corporate predecessors have run a tug boat and barging company at the Property essentially continuously since the late 1970s. Brix's vessels are moored at, dispatched from, and undergo minor routine maintenance at the Property.

Sometime in the late 1970s, Knappton Towboat Company, a Washington corporation, initiated the process of developing the Property.[29] Brix has been unable to conclude after

[29] See "Report of Hearings Officer Decision" dated October 18, 1978, PLTF000072-000073.[29] The Report reflects that Knappton Towboat Company (which changed its name to Knappton Corporation in 1978), as contract purchaser, made a request for "conditional use to construct office building, parking lot, underground tank storage, warehouse and open storage within the Willamette River Greenway." See attached Report of Hearings Officer Decision 10/18/78, PLTF000072-000073. See also two August 8,

diligent effort whether the Knappton Towboat Company ever operated on the Property, as Knappton Towboat Company changed its name to Knappton Corporation in 1978.[30] This name change appears to have occurred while the Property was still being developed, as some documents indicate that Knappton Corporation had some part in developing the Property.[31]

In the late summer and early fall of 1982, Knappton Corporation became a Delaware corporation. This was a multi-step process. First, a new entity named Knappton Corporation incorporated in Delaware. Then the Washington-incorporated Knappton Corporation merged into the Delaware-incorporated Knappton ("Knappton DE"). Knappton DE's corporate predecessors will be referred to as "Knappton WA."

In late 1988 and early 1989, Knappton DE merged into Brix, with Brix being the surviving entity.

Brix's relationship to the Property:	Brix has owned the Owned Property since 1993. Prior to that, Brix's corporate predecessors, Knappton DE and Knappton WA, conducted business on the Property from approximately the late 1970s[32] until Brix took its current name and form.
Address:	9030 NW St. Helens Road Portland, OR 97231
Multnomah County Alternative Tax Lot ID #:	R961110390[33]
Date of acquisition:	September 21, 1993[34]
Period of ownership, lease, operation, or affiliation:	Brix and its corporate predecessors have conducted the same activities at the Property essentially continuously since the late 1970s. Brix acquired the Owned Property in 1993 from

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1979 UST Permits issued by the City of Portland to "Knappton Tug Boat Co" [sic], BDS Permit Nos. 0472 and 0473 00015259-00015261, and the City of Portland's 11/21/79 Certificate of Occupancy for the building, 00015254 (best quality copy available). Brix is unable to provide an exact timeline of the sequence of those events.

[30] See attached Amended Certificate of Authority from the State of Oregon dated 12/26/78 00015252 and the Application for Amended Certificate of Authority dated 12/9/78 00015253.

[31] See attached 12/19/1978 Bureau of Buildings Report of Plumbing Inspection 00015285.

[32] *Id.* Interviews of Brix's employees, some of whom had also worked for Knappton Corporation, confirmed this.

[33] From Portlandmaps.com website (not attached).

[34] See attached September 1993 Statutory Warranty Deed from Peter J. Brix to Brix Maritime Co. 00015224-00015233.

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	Peter J. Brix via a statutory warranty deed on or about September 22, 1993.[35] Brix continues to own the Owned Property.
Brief overview of Brix's activities at the Property:	Brix, like its corporate predecessors, is in the business of transporting products, providing river barging and ocean towing services. Brix employees who have been with the company throughout its time at the Property confirm that the mix of administrative and operational activities taking place at the Property has not changed since the Property was developed in the late 1970s. It is Brix's understanding that Knappton DE's activities at the Property largely consisted of administrative activities which included typical office administrative functions such as human resources, sales, and payroll, and operational activities which included tug mooring, minor tug maintenance, tug fueling, dispatch and crew rotation. A stationary enclosed work barge is permanently moored in the Willamette River between the mooring docks and shoreline. Fueling, oil changing, bilge water disposal, and routine maintenance and repairs are conducted within covered and contained areas of the work barge and tugs. The barge has six watertight compartments and any potential spillage from the deck or leaks from the waste holding tanks, were they to occur, would be contained inside the barge and would not be released. Spill kits are located on the tugboats, adsorbent pads and booms are present at the barge fueling station, and spill containment booms are located at the end of each dock. According to Brix personnel, if a spill occurs, the procedures to address the spill are as follows: ensure the health and safety of employees; determine the source of the spill and do initial containment; contact dispatch, appropriate agencies, and cleanup firms; initiate further containment (deploy booms); and clean up. Tug fueling proceeds as follows: diesel fuel is transferred from upland USTs to tugboats through a fueling station located in a spill containment area located beneath a canopy at

[35] See attached Recorded Document Search results 00015692-00015695 and September 1993 Statutory Warranty Deed from Peter J. Brix to Brix Maritime Co. 00015224-00015233.

the north end of the work barge. Fuel is transferred from the upland USTs via metal and flexible piping through a transfer pump, meter, and fueling hose to the waiting vessel moored adjacent to the work barge. An employee is continuously present at the fueling station on the barge during fueling, and a second employee is stationed on the vessel at the fuel intake port to monitor the fueling operation. The vessel's fuel inlet is located in an enclosed area accessed from the breezeway (an open-air space between the living quarters and the engine room) through a portal. Thus, in the unlikely event of an overfill, fuel would be contained by the vessel's portal threshold. The fueling station is equipped with electronic shutoff switches. Absorbent pads and other spill containment materials are readily available in case of spills.

Tugboat engine oil changes proceed as follows: Tugboat engine oil changes are performed on the tugs every 1,000 operating hours, typically every three months. Each change requires between 150 to 300 gallons of 30-weight lubricating oil. The used oil is transferred from the tugboat into two 1,000-gallon used oil tanks located in the work barge. Virgin lubricating oil is pumped from an upland UST using procedures similar to the fuel transfer process. Employees are stationed in the fuel/oil transfer station on the work barge and at the oil inlet port during the oil changes. Both areas are contained and absorbent materials are readily available in the event of minor spills.

No ship construction, ship retrofitting, tank cleaning, hull repair, sandblasting or hull scraping, hull painting, re-powering, or any major maintenance requiring a vessel to be out of the water is conducted by Brix either upland or overwater at the Property or anywhere within the Investigation Area.

No hull painting is performed by Brix at the Property or anywhere within the Investigation Area. From time to time, some very minor touchup brush painting is performed on the decks and interiors of Brix vessels by Brix employees. Brix utilizes between ten and fifteen gallons of paint per vessel per

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[36] See attached 4/04/89 Certificate of Merger of Knappton Corporation into Brix Maritime Co. 00005295-00005296 and 12/7/88 Agreement & Plan of Merger between Knappton Corporation, a Delaware corporation, and Brix Maritime Co., a Delaware corporation 00004858-00004864.

year which is purchased in household quantities. This painting is done by hand, using a brush, and is performed on the decks and other portions of the superstructures of the vessels but is never done on the exterior hulls of the vessels.

Brix has operated on the Property under the name "Brix Maritime Co." since April 1989, when Knappton DE merged into Brix and Brix succeeded to all the rights and liabilities of Knappton DE, including Knappton DE's relationship with the Property.[36]

a. Knappton Corporation.

Brix assumes that this part's question relating to "Knappton Corporation" refers to Knappton DE. In 1978, Knappton Towboat Company, a Washington corporation, changed its name to Knappton Corporation.[37] In 1982, Knappton Corporation merged into Knappton DE.[38]

Date of acquisition: Neither Knappton DE nor Knappton WA ever owned the Property.

Period of ownership, lease, operation, or affiliation: Knappton DE's corporate predecessor(s), to the best of Brix's knowledge, began operations on the Property in the late 1970s.

- A "Report of Hearings Officer Decision" dated October 18, 1978, reflects that Knappton Towboat Company (which changed its name to Knappton Corporation in 1978), as contract purchaser,

[37] See attached Amended Certificate of Authority from the State of Oregon dated 12/26/78 00015252 and the Application for Amended Certificate of Authority dated 12/9/78 00015253.
[38] See attached Articles of Merger of Domestic and Foreign Corporation of 12/6/82 00014851-00014854.
[39] See attached 10/10/78 Report of Hearings Office Decision, PLTF000072-000073

made a request for "conditional use to construct office building, parking lot, underground tank storage, warehouse and open storage within the Willamette River Greenway."[39]

- A Bureau of Buildings Report of Plumbing Inspection naming the Washington-incorporated Knappton, dated December 19, 1978, reflects that a new 2-story office building was to be built.[40]

When Knappton WA merged into Knappton DE on or about December 6, 1982, the surviving Delaware entity assumed all of the rights and liabilities of Knappton WA.[41]

Overview of activities:

To the best of Brix's knowledge, Knappton Towboat Company, which changed its name to Knappton Corporation, developed the Property in the late 1970s. The information in Brix's possession related to this includes:

- the October 18, 1978 "Report of Hearings Officer Decision" discussed *supra*;[42]
- two August 8, 1979 UST Permits issued by the City of Portland to "Knappton Tug Boat Co;" [sic][43]
- a City of Portland Certificate of Occupancy for the building, dated 11/21/79;[44]
- Information gleaned from Brix's interviews of personnel (Mark Troutman, Mike Walker, and Dianne Farrier) employed by one or more of the Knappton entities at or near this time, which information was consistent with the documents in Brix's possession.

According to Mssrs. Troutman and Walker and Ms. Farrier, Knappton's activities at the Property largely consisted of administrative activities which included typical office administrative functions such as human resources, sales, and payroll, and operational activities which included tug

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[40] See attached 12/19/1978 Bureau of Buildings Report of Plumbing Inspection 00015285.
[41] See attached Articles of Merger of Domestic and Foreign Corporation of 12/6/82 00014851-00014854 See *also* Agreement and Plan of Merger, dated 9/29/1982, 00015658-00015671.
[42] See attached Report of Hearings Officer Decision 10/18/78 PLTF0000072-73.
[43] See attached BDS Permit Nos. 0472 and 0473 00015259-00015261.
[44] See attached Report of Building Inspection from City of Portland 00015254 (best quality copy available).

mooring, minor tug maintenance, tug fueling, dispatch and crew rotation.

No ship construction, ship retrofitting, tank cleaning, hull repair, sandblasting or hull scraping, hull painting, re-powering, or any major maintenance requiring a vessel to be out of the water is conducted by Brix either upland or overwater at the Property or anywhere within the Investigation Area.

No hull painting is performed by Brix at the Property or anywhere within the Investigation Area. From time to time, some very minor touchup brush painting is performed on the decks and interiors of Brix vessels by Brix employees. Brix utilizes between ten and fifteen gallons of paint per vessel per year which is purchased in household quantities. This painting is done by hand, using a brush, and is performed on the decks and other portions of the superstructures of the vessels but is never done on the exterior hulls of the vessels.

b. Brix Maritime Co.

Brix Maritime Co. is the Responding entity. See portion of response preceding part (a).

c. Brix Maritime Towing, Inc.

There no longer exists any entity named "Brix Maritime Towing Inc." Brix Maritime Towing Inc. was merged into Brix Maritime Co. in 2007.[45] According to Brix employees, Brix Maritime Towing Inc., formerly known as Lafferty Transportation, operated in Idaho.

Date of acquisition:	Brix Maritime Towing, Inc. did not own the Property, or, to the best of Brix's knowledge, any other property in the Investigation Area.
Period of ownership, lease, operation, or affiliation:	Brix is unaware of any information that would indicate Brix Maritime Towing, Inc. ever owned, leased, or operated at the Property, or at any other property within the Investigation Area.

[45] See attached Certificate of Ownership and Merger of Brix Maritime Towing and Brix Maritime Co, 00004820.

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Overview of activities:	To the best of Brix's knowledge, Brix Maritime Towing, Inc.'s only "activities" at the Property were purely administrative in nature. To the best of Brix's knowledge, it has no information regarding when Brix Maritime Towing used the Property for these administrative activities (payroll and bookkeeping). To the best of Brix's knowledge, Brix Maritime Towing, Inc. did not conduct anything other than purely administrative activities at the Property.

d. **Brix Rafting & Sorting Co.** There no longer exists any entity named "Brix Rafting and Sorting Co." Brix Rafting and Sorting Co. merged into Brix Maritime Co. in 2001.[46] Prior to that merger, Brix Rafting and Sorting operated in Troutdale, Oregon.

Date of acquisition:	Brix Rafting & Sorting Co. did not own the Property, or, to the best of Brix's knowledge, any other property in the Investigation Area.
Period of ownership, lease, operation, or affiliation:	To the best of Brix's knowledge, Brix Rafting & Sorting Co. did not own, lease, or operate at the Property, or at any other property within the Investigation Area.
Overview of activities:	To the best of Brix's knowledge, Brix Rafting & Sorting Co.'s only "activities" at the Property were purely administrative in nature. To the best of Brix's knowledge, Brix is unaware of any information regarding when Brix Rafting & Sorting Co. used the Property for its administrative activities (payroll and bookkeeping). To the best of Brix's knowledge, Brix Rafting & Sorting Co. did not conduct anything other than purely administrative activities at the Property.

e. **Twin City Barge, Inc.** In the early 1980s, Knappton WA was merged into Knappton DE, which was a wholly-owned subsidiary of Twin City Barge, Inc., a Delaware corporation. After the merger, Peter Brix continued to run Knappton DE. Twin City Barge filed a Chapter 11 plan of reorganization in or about

[46] See attached certificate of Ownership and Merger 00004835.

September 1987 and proposed to reorganize around Knappton DE, its sole financially viable subsidiary. The reorganization plan was approved in November 1987. Twin City Barge then obtained permission to do business in Oregon and changed its name to Brix Maritime Co. Brix Maritime Co. remained a Delaware corporation. In early 1989, Knappton DE merged into Brix Maritime.

Date of acquisition:	Twin City Barge, Inc. never owned the Property.[47]
Period of ownership, lease, operation, or affiliation:	A Recorded Document Search shows that Twin City Barge never held title to the Owned Property. To the best of Brix's knowledge, Twin City Barge, Inc.'s relationship to the Property, if any, was solely by virtue of its ownership of Knappton Corporation, which it acquired in or about September 1982.[48] In or about August 1988, Twin City Barge, Inc. changed its name to Brix Maritime Co., a Delaware corporation.[49]
Overview of activities:	To the best of Brix's knowledge, Twin City Barge, Inc. never conducted any activities at the Property. Its wholly-owned subsidiary, Knappton DE, conducted activities at the Property as described above in Brix's response to part (a).

f. Arthur A. Riedel.

Date of acquisition:	Arthur A. Riedel bought the Owned Property in 1973.[50]
Period of ownership, lease, operation,	In 1981, Arthur A. Riedel sold the Owned Property to the Siegfried Company, an Oregon partnership consisting of Arthur Riedel and Peter J. Brix, and Arthur A. Riedel individually.[51] In 1993, The Siegfried Company and Arthur Riedel granted Peter J. Brix a Quit Claim Deed to

[47] See attached Recorded Document Search results 00015692-00015695.
[48] See attached Agreement and Plan of Merger between Knappton Corporation of Delaware and Knappton Corporation of Washington 9/29/82 00015658-00015671.
[49] See attached Certificate of Amendment of Restated Certificate of Incorporation of Twin City Barge 00004871-00004874.
[50] See attached 1973 Bargain and Sale Deed between Glen Widing and Arthur A. Riedel 00015247-00015250 (best quality copy available).
[51] See attached 1981 Bargain and Sale Deed between Arthur A. Riedel and The Siegfried Company and Arthur Riedel 00015244-00015246.

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or affiliation:	the Owned Property.[52] To the best of Brix's knowledge, Brix has no information about whether Arthur A. Riedel owns or owned any other property in the Investigation Area.
Overview of activities:	Brix was unable, after a diligent search, to find information that would indicate what Mr. Riedel's involvement was with either the Property or Brix. Brix is aware of only two documents relating to Mr. Riedel's involvement at the Property: ▪ A "Report of Hearings Officer Decision" dated July 14, 1977, reflecting that Mr. Riedel, as deedholder, was associated with a "conditional use request for fill excavation and Greenway Conditional Use Permit for construction of a barge berthing area."[53] ▪ A Report of Hearings Officer Decision dated October 18, 1978, reflecting that Mr. Riedel, as deedholder, and Knappton Towboat Company, as contract purchaser, made a request for "conditional use to construct office building, parking lot, underground tank storage, warehouse and open storage within the Willamette River Greenway."[54] Brix has also located the following documents: ▪ November 7, 1991 Riedel Environmental Services Inc. ("RES") Contract for Consulting Services, under which some agreements between RES and Brix for technical consulting services relating to the development of an "umbrella" oil spill contingency plan.[55] Brix, after a diligent search, is unaware of any additional information about the subject matter of that consulting agreement. ▪ A Release and Indemnity, dated December 29, 1992, indicating that Brix and Mr. Riedel were, at one time, parties to a consulting agreement.[56]

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[52] See attached 1993 Quit Claim Deed between The Siegfried Company and Peter J. Brix 00015240-00015243.
[53] See attached Report of Hearings Officer Decision 07/14/77, PLTF000069-000070.
[54] See attached Report of Hearings Officer Decision 10/18/78 PLTF000072-000073.
[55] See attached Contract for Consulting Services 00014968-00014982
[56] See attached Release and Indemnity, dated Dec. 29, 1992, 00005111–00005112.

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Additionally, Mr. Riedel was, at one time, one of Brix's principal shareholders.[57] Mr. Riedel was appointed a director of Brix on October 31, 1990,[58] and resigned on December 28, 1992, prior to Brix's purchase of the Property.[59]

Mark Troutman indicated that Mr. Riedel or an entity affiliated with him may have placed the riprap on the Property.

River Leases

T4 Spud Barge

Period of ownership, lease, operation, or affiliation:	Brix and its corporate predecessors have leased mooring space at the Port of Portland's ("Port") Terminal 4 ("T4") on North Lombard Street since at least 1979. Current and past lease documents are attached to these responses.[60]

[57] See attached 00005131-00005134; 00005517-00005519; 00005528-00005533, and 00015639.
[58] See attached Minutes of a Meeting of the Board of Directors of Brix Maritime, dated Oct. 31, 1990, 00005131-5134.
[59] See attached Resignation dated Dec. 28, 1992, 00005110
[60] See attached ~~00040899-00040901, 00040845-00040804-00040813, 00040836~~; 0004077~~0~~5-~~0007080~~300041711.

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Overview of activities at the T4 Spud Barge:

Brix and its corporate predecessors used this mooring space solely to temporarily moor empty barges awaiting assignment.[61] No loading or unloading activities take or have taken place there. Brix employees who have been with the company throughout its time at the Property confirm that the use of the mooring space has not changed over time.

Since about 1999 or 2000, Brix has kept a "spud barge" moored at T4. Brix elected to make use of a spud barge rather than replace dolphins[62] Brix had previously used to tie off vessels at T4. The spud barge is a floating barge 36 feet wide and 208 feet long. It uses pipes as a means by which to moor itself. The pipes are located in wells at the bottom of the boat, and act as anchors when dropped to the riverbed.

Since Brix placed the spud barge in this location, Brix's vessels tie off to the spud barge rather than to dolphins.[63]

After a diligent search through its documents and after interviews of its employees, Brix has been unable to find any information indicating that Brix or its corporate predecessors conducted any activities that would be considered "operations" at the Spud Barge. Brix (like its corporate predecessors before it) only ties off barges until they can be towed.

Historical River Leases

After a diligent search, Brix was unable to find specific information about when or how long the Historical River Leases were in place. To the best of Brix's knowledge, based on the available documents and interviews of Brix employees, the potential historical leases involving properties within the Investigation Area were as follows:

- log storage and barge mooring at St. Johns Forest Products —time period unknown (Brix could find no source document for this lease);
- a lease with Time Oil at the Linnton Dock for loading Time Oil fuel for delivery to ships — time period unknown (Brix could find no source documents for this lease);
- a lease of the Riedel "Red Dock" for use as a barge tie-off[64] — 1995 to unknown. After a diligent search, Brix found no further written information about whether Brix still leases this mooring space. Anecdotal information suggests Brix no longer leases space at this location;

[61] See attached 00040899-00040901.

[62] A dolphin consists of a group of piles driven into the river bed in a circular pattern and drawn together with wire rope. A dolphin is used when a single pile would not provide the desired strength.

[64] See attached 00041961-00041971.

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- A sublease with McCormick & Baxter Creosoting for the use of submerged lands as a barge tie-off — documents in Brix's files indicate that Knappton WA began tying off barges at this location in about 1978,[65] and terminated the lease in April 2000[66] (lease documents are attached, including aquatic lease ML-615);[67]
- A moorage agreement with Schnitzer Steel Industries, Inc., for loading of barges — Brix's files contain a lease dated June 16, 1997,[68] but after a diligent search, Brix was unable to find more information, documentary or anecdotal, about this agreement or about this space (lease documents are attached, but Brix could not find the associated aquatic lease).

[65] See attached 00041991 at 00041976-00041991.
[66] See attached 00041989 at 00041976-00041991.
[67] See attached 00041976-00041991.
[68] See attached 00041865–00041868.

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6. Identify any persons who concurrently with you exercises or exercised actual control or who held significant authority to control activities at each Property, including:

a. partners or joint venturers;
b. any contractor, subcontractor, or licensor that exercised control over any materials handling, storage, or disposal activity on the Property; (service contractors, remediation contractors, management and operator contractors, licensor providing technical support to licensed activities);
c. any person subleasing land, equipment or space on the Property;
d. utilities, pipelines, railroads and any other person with activities and/or easements regarding the Property;
e. major financiers and lenders;
f. any person who exercised actual control over any activities or operations on the Property;
g. any person who held significant authority to control any activities or operations on the Property;
h. any person who had a significant presence or who conducted significant activities at the Property; and
i. any government entities that had proprietary (as opposed to regulatory) interest or involvement with regard to the activity on the Property.

Objections:

Brix objects to this Question on the grounds it is overbroad and exceeds EPA's authority pursuant to Section 104(e). Brix objects to the terms "control," "dispose," "significant authority," "materials," and "activities" as overbroad, vague and ambiguous. Brix assumes that the following definitions apply to this Question:

- "Control" means any exercise of power or influence over operations as defined in *U.S. v. Bestfoods*. *See* 524 U.S. 51, 66-67 (1998). A corporate parent's general authority over its corporate subsidiaries does not fall within the meaning of "significant authority to control activities or operations on the Property."

- "Activities" are acts specifically related to leakage or disposal of hazardous waste or to compliance with environmental laws or regulations. *See, e.g., U.S. v. Bestfoods*, 524 U.S. 51, 66-67 (1998). Brix further assumes that the term "significant authority" applies only to "activities" as defined here.

- "Disposal" is defined as in 42 U.S.C. §6903(3).

Subject to and without waiving these objections or the General Objections, Brix provides the response that follows.

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Response:

Consistent with EPA's definition of "you," Brix assumes that the Question calls for the identities of "persons" other than Brix and/or its employees and/or its agents.

The Property

Brix and its corporate predecessors have run a tug boat and barging company at the Property essentially continuously since the late 1970s. Brix's vessels are moored at, dispatched from, and undergo minor routine maintenance at the Property.

Based on its interviews of its employees and its review of its documents, to the best of Brix's knowledge, since 1979, there has been no entity other than Brix or its corporate predecessors which has routinely exercised control or which held significant authority to exercise control in a routine manner over operational activities at the Property.

a. None.

b. Assuming that part (b) asks for information relating to handling, permanent or long-term storage and disposal of hazardous materials, Brix states no hazardous materials have been stored at or disposed of on the Property. Brix, as did its corporate predecessors, uses products containing constituents which could be hazardous when disposed of and arranges for any hazardous or solid waste materials to be removed from the Property for proper disposal. Brix is not in the business of storing materials. Brix stores its own materials as necessary to support its day-to-day activities.

c. There are no entities responsive to this part.

d. Portland General Electric Company ("PGEC") is a party to a 1980 Underground Distribution Line Easement. [69]

Full name:	Portland General Electric Company ("PGEC")
Street address:	121 S.W. Salmon Street Portland, OR 97204
Legal form:	After review of information in its possession, Brix found no responsive information.
State of	After review of information in its possession,

[69] See attached 1980 Underground Distribution Line Easement between Arthur A. Riedel and Portland General Electric Company 00015262-00015265.

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"incorporation": Brix found no responsive information.

Brief description of business: Brix's information indicates that PGEC is a utility company in the business of generating and delivering power.

The City of Portland requested and obtained from Brix an easement beneath the Owned Property. The City currently owns and maintains a 48-inch-diameter storm sewer line located near the northern Property boundary that discharges to the Willamette River through Outfall AAE427 (Figure 13-1). The catchment area for Outfall AAE427 includes runoff from NW St. Helens Road, the southbound approach from NW St. Helen Road to the St. Johns Bridge (NW Bridge Avenue), and from residential and undeveloped forested areas west of NW St. Helens Road (Portland Maps On-Line Database, 2008). The Property's storm water system does not connect to the City's stormwater system.

Before 1998, the City storm sewer line previously ran under Brix's office building and discharged at a more southerly point. That outfall and pipeline were abandoned in 1998.

To the best of its knowledge, Brix has no information regarding the City of Portland's legal form or street address or other "identification" information as defined by Definition No. 5.

e. Assuming, as stated above, that "activities" and "operations" specifically relate to leakage or disposal of hazardous waste or to compliance with environmental laws or regulations, as discussed in *U.S. v. Bestfoods*, 524 U.S. 51, 66-67 (1998), and further assuming that the term "significant authority" applies only to "activities" as defined here, Brix answers as follows.

To the best of Brix's knowledge, there are no financiers or lenders who exercise actual control or who hold significant authority to control Brix's operations at the Property. Additionally, to the best of Brix's knowledge, no financier or lender has ever exercised actual control over Brix's operations or asserted that it had authority to control Brix's operations at the Property.

f.

Full name: **Arthur A. Riedel**

To the best of Brix's knowledge, Mr. Riedel was involved with the Property and/or Peter J. Brix in more than one capacity (*i.e.*, as an individual (as a deedholder) and through one or more of his many companies such as

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Riedel Environmental Services).

Street address: To the best of Brix's knowledge, the following addresses were last known to Brix for the following entities:

Riedel Environmental Services
Foot of North Portsmouth Ave
Portland, OR 97203

Riedel International
4555N. Channel Ave.
P.O. Box 3320
Portland, OR 97208
In 1973, Arthur A. Riedel was granted a Bargain and Sale Deed for the Owned Property.[70]

Brix is unaware of any information in its possession regarding Mr. Riedel's job titles at either of these companies, and is unable to summarize the business activities of these companies.

Full name: **Peter J. Brix**

Street address: 12 Shamrock Lane, Sunriver, OR 97707

g. There are no persons responsive to this part.

h. Except as set forth in Brix's responses to the other parts of this Question, since 1979, no other entity has conducted significant activities on the Property.[71]

i. Brix objects to this question as vague and ambiguous — it is unclear what is meant by "proprietary interest" in this context. To the extent the question asks for the identities of government entities which had any contract-based interests or involvement with regard to the activities on the Property, Brix is unaware of any entities responsive to this question.

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[70] See attached 1973 Bargain and Sale Deed between Glen Widing and Arthur A. Riedel 00015247-00015250.

[71] EPA and other potentially responsible parties have suggested on numerous occasions that Foss Maritime Company, a Washington corporation, may conduct or have conducted significant activities on the Property. Brix was acquired by Foss Maritime Company in 1993. After the acquisition, Brix registered "Foss Maritime Company" as an assumed business name. *See* attached 1994 Assumed Business Name Registration 00005377. *See also* BRIXINHOUSE004875. Under this registration, Brix conducts business in Oregon using the name Foss Maritime Company. Brix prominently displays the Foss name on its vessels, its buildings, and its stationery pursuant to this registration.

CONFIDENTIAL BUSINESS INFORMATION

River Leases

Insofar as this Question may be read to require Brix to respond regarding any non-owned property in the Investigation Area, Brix objects that the Question is overbroad, unduly burdensome, and assumes that Brix has information about entities with which Brix and/or its corporate predecessors have only a lease relationship. Brix further objects to the extent that responding to the Question requires Brix to speculate or draw legal conclusions. Subject to and without waiving these or any other objections already asserted in this response or the General Objections, Brix provides a response as follows.

Brix assumes that the Question does not seek information about aquatic lands leased directly from the State of Oregon.

After a diligent search of its files and archives, Brix has insufficient information to permit it to provide a response to this Question as it applies to the River Leases.

CONFIDENTIAL BUSINESS INFORMATION

7. Identify and describe any legal or equitable interest that you now have, or previously had in each Property. Include information regarding the nature of such interest; when, how, and from whom such interest was obtained; and when, how, and to whom such interest was conveyed, if applicable. In addition, submit copies of all instruments evidencing the acquisition or conveyance of such interest (e.g., deeds, leases, purchase and sale agreements, partnership agreements, etc.).

Response:

The Property

As set forth above, Brix owns and conducts business at the Property. The Owned Property was transferred by warranty deed from Peter J. Brix to Brix on or about September 21, 1993.[72]

The Owned Property has not been transferred since this transaction in 1993.[73] To the best of Brix's knowledge, Leased Aquatic Lands immediately offshore from the Owned Property have been leased by Brix since at least 1980[74] and Brix has subleased the aquatic lands offshore from its immediate neighbor to the south of the Owned Property since at least 1989.[75]

River Leases

Spud Barge at T4
Documents regarding Brix's lease of mooring space at T4 are attached.[76] Note the aquatic lands lease covers more land than Brix's T4 lease with the Port. That lease describes the subject aquatic lands as follows:

> PARCEL 2 (LOWER STORAGE)
>
> All state-owned submerged lands in the Willamette River lying in Sections 2, Township 1 North, Range 1 West, Willamette Meridian, City of Portland, Multnomah County, Oregon, more particularly described as follows:
>
> Beginning at Point "A" as described in PARCEL 1, thence North 44° 22' 06" West a distance of 137.62 feet to the TRUE POINT OF BEGINNING for PARCEL 2;
>
> Thence South 57° 50' 20" West a distance of 175.00 feet;

[72] See attached 9/21/03 Quitclaim Deed 00015240-00015243.
[73] Recorded Document Search 00015692-00015695.
[74] Submersible Land Lease ML-613.
[75] 00041804, 00041805, 00041809.
[76] See attached 00040745-00041711; 00005099.

Thence North 32° 09' 40" West a distance of 300.00 feet;

Thence North 57° 50'20" East a distance of 175.00 feet;

Thence South 32° 09'40" East a distance of 300.00 feet to the TRUE POINT OF BEGINNING, containing 52,500 square feet (1.21 acres, more or less).

Total number of acres: 2.44 acres, more or less.

Historical River Leases

To the best of Brix's knowledge, the Historical River Leases were as follows:

- Log storage and barge mooring at St. Johns Forest Products (Brix could find no source documents for this lease);
- A lease with Time Oil Co. at the Linnton Dock for loading Time Oil fuel for delivery to ships (Brix could find no source documents for this lease);
- A lease of the Riedel "Red Dock" for use as a barge tie-off (lease documents are attached);[77]
- A sublease with McCormick & Baxter Creosoting for the use of submerged lands as a barge tie-off (lease documents are attached, including aquatic lease ML-615);[78]
- A moorage agreement with Schnitzer Steel Industries, Inc., for loading of barges (lease documents are attached, but Brix could not find the associated aquatic lease).[79]

[77] See attached 00041961-00041971.
[78] See attached 0004196776-00041991.
[79] See attached 00041865–00041868.

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8. If you are the current owner and/or current operator, did you acquire or operate the Property or any portion of the Property after the disposal or placement of hazardous substances, waste, or materials on, or at the Property? Describe all of the facts on which you base the answer to this question.

Objections:

Brix objects to this Question on the grounds that it is vague, overbroad, and unduly burdensome. Brix objects to the terms "disposal" and "placement" as overbroad, vague and ambiguous. Brix assumes the terms "disposal," as defined in 42 U.S.C. § 6903(3), and "placement" do not encompass the mere "use" of such materials at the Property and their subsequent removal for disposal elsewhere. Brix further assumes that "operator" means "operators" as defined in *U.S. v. Bestfoods*, 524 U.S. 66-67. Brix also objects to this Question on the grounds that it seeks information about the Property at times Brix did not own or operate at the Property. Subject to and without waiving these objections or the General Objections, Brix provides the response that follows.

Response:

The Property

Brix and its corporate predecessors have run a tug boat and barging company at the Property essentially continuously since the late 1970s. Brix's vessels are moored at, dispatched from, and undergo minor routine maintenance at the Property.

Accordingly, Brix assumes this question relates to the disposal or placement of hazardous substances, waste, or materials on, or at the Property prior to the late 1970s, when business activities first began on the Property (as set forth in more detail *supra*).

After interviews of its personnel and searching available information, to the best of Brix's knowledge, there was no disposal or placement of hazardous substances, waste, or materials on, or at the Property prior to the time Brix's corporate predecessors first began to operate on the Property. Brix bases its response to this question on its reviews of company records, interviews of its long-time employees and its institutional knowledge of its historical operations.

River Leases

Insofar as this Question may be read to require Brix to respond regarding any non-owned property in the Investigation Area, Brix objects that the Question is overbroad, unduly burdensome, and assumes that Brix has information about entities with which Brix and/or its corporate predecessors have only a lease relationship. Brix further objects to the extent that responding to the Question requires Brix to speculate or draw legal conclusions. Subject to and without waiving these or any other objections already asserted in this response or the General Objections, Brix provides a response as follows.

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Not applicable. Brix does not and did not own or operate any of the properties that are the subject of the River Leases.

CONFIDENTIAL BUSINESS INFORMATION

9. At the time you acquired or operated the Property, did you know or have reason to know that any hazardous substance, waste, or material was disposed of on or at the Property? Describe all investigations of the Property you undertook prior to acquiring the Property and all of the facts on which you base the answer to this question.

Objections:

Brix objects to this Question on the grounds that it is vague, overbroad and ambiguous. Brix objects to the term "disposed" as overbroad, vague and ambiguous. Brix assumes that the term "disposed," as defined in 42 U.S.C. § 6903(3), does not encompass the mere "use" of such materials at the Property and their subsequent removal for disposal elsewhere. Brix further objects to this Question to the extent that it seeks information about the Property at times Brix did not own, lease or operate at the Property. Consequently, Brix objects to this Question on the grounds that it seeks hearsay and other unreliable information. Subject to and without waiving these objections or the General Objections, Brix provides the response that follows.

Response:

The Property

Brix assumes this question requests information regarding whether Brix's corporate predecessors knew or had reason to know that any hazardous substances, waste, or materials had been disposed of on or at the Owned Property or on the associated Leased Aquatic Lands prior to the late 1970s, when Brix and its corporate predecessors first began to conduct business on the Property (as set forth in more detail *supra*).

After a diligent search, Brix has no information that would lead it to conclude that its corporate predecessors knew or had any reason to know that there was any disposal of hazardous substances, waste, or materials on, or at the Property or on the associated Lease Aquatic Lands prior to the time Brix's corporate predecessors first began to conduct business on the Property.

After a diligent search, Brix has no information regarding investigations of the Property undertaken by Knappton WA prior to the late 1970's, when Knappton WA first began to conduct business on the Property.

River Leases

Insofar as this Question may be read to require Brix to respond regarding any non-owned property in the Investigation Area, Brix objects that the Question is overbroad, unduly burdensome, and assumes that Brix has information about entities with which Brix and/or its corporate predecessors have only a lease relationship. Brix further objects to the extent that responding to the Question requires Brix to speculate or draw legal

conclusions. Subject to and without waiving these or any other objections already asserted in this response or the General Objections, Brix provides a response as follows. Not applicable. Brix does not and did not own or operate any of the properties that are the subject of the River Leases.

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10. Identify all prior owners that you are aware of for each Property identified in Response to Question 4 above. For each prior owner, further identify if known, and provide copies of any documents you may have regarding:

    a. the dates of ownership;
    b. all evidence showing that they controlled access to the Property; and
    c. all evidence that a hazardous substance, pollutant, or contaminant, was released or threatened to be released at the Property during the period that they owned the Property.
    d. all information requested in (a) through (c) above regarding but not limited to the following entities:
        i. Knappton Corporation;
        ii. Arthur A. Riedel;
        iii. Glen A. Widing;
        iv. Oregon Asset Co.; and
        v. Portland Manufacturing Co.

Objections:

Brix objects to this Question on the grounds that it is vague, overbroad, ambiguous and unduly burdensome. Brix objects to the term "controlled access" as overbroad, vague and ambiguous. For the purposes of this response, Brix assumes that "controlled access" means any exercise of power or influence over access to operations as defined in *U.S. v. Bestfoods*. *See* 524 U.S. at 66-67. Brix further objects to the Question to the extent it assumes that Brix has responsive knowledge or information about the activities of the entities named in parts (a) through (f). Brix also objects to this Question on the grounds that it seeks information about the properties at times when neither Brix nor its corporate predecessors owned or operated at those properties, and as a result, the Question seeks hearsay and other inherently unreliable information. Subject to and without waiving these objections or the General Objections, Brix provides the response that follows.

Response:

The Property

Assuming that Question 10's reference to the "Property" means the Owned Property with its boundaries as they exist today, Brix answers as follows:

1935–1965
According to a title report obtained from Western American Property Research/Fidelity National Title Company of Oregon, Portland Manufacturing Co., an Oregon Corporation, owned the Property from on or about August 8, 1935, to sometime in 1965. To the best of Brix's knowledge, it has no information (other than aerial photographs of the

CONFIDENTIAL BUSINESS INFORMATION

Property)[80] about the Portland Manufacturing Co., including information about whether Portland Manufacturing Co. controlled access to the Property or whether there was any release or threatened release of a hazardous substance, pollutant, or contaminant at the Property during the period it owned the Property.

1965–sometime between 1971 and January 1973
According to the same title report, in 1965, Portland Manufacturing Company transferred the Property (in two transactions) to the Oregon Asset Company, an Oregon Corporation. To the best of Brix's knowledge, it has no information about these transfers. The Oregon Asset Company appears to have owned the Property from 1965 to about January 1973. To the best of Brix's knowledge, Brix has no information (other than aerial photographs of the Property)[81] about the Oregon Asset Company, including information about whether the Oregon Asset Company controlled access to the Property or whether there was any release or threatened release of a hazardous substance, pollutant, or contaminant at the Property during the period it owned the Property.

Sometime between 1971 and January 1973–February 1973
According to the same title report, beginning in or about November 1971, a series of transfers between the Oregon Asset Company and Glen A. Widing took place. To the best of Brix's knowledge, it has no information about these transfers. To the best of Brix's knowledge, it has no information (other than aerial photographs of the Property)[82] about Glen A. Widing, including information about whether he controlled access to the Property or whether there was any release or threatened release of a hazardous substance, pollutant, or contaminant at the Property during the period he owned the Property.

February 1973–July 1981
According to the same title report, on or about February 21, 1973, Glen A. Widing transferred the Property by bargain and sale deed to Arthur A. Riedel. To the best of Brix's knowledge, it has no information about this transfer. Brix is aware that Portland General Electric Company and Arthur A. Riedel were party to a 1980 Underground Distribution Line Easement. Brix is also aware that the City of Portland requested an easement for an outfall located on the Property to replace and relocate the pipe which used to run under the main office building.[83] To the best of Brix's knowledge, it has no information about either of these easements. However, Brix has disclosed its knowledge of these easements as they seem to indicate that Arthur A. Riedel controlled access to the Property. Brix has also located a letter, dated September 1, 1981, in which arrangements were made to assign and sublease certain rights associated with an aquatic lease.[84]

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[80] See attached aerial photographs from 1936 to 1965. BRIXINHOUSE 001091-001107, BRIXINHOUSE 001129-001131, BRIXINHOUSE001135-001141; BRIXINHOUSE001151-001159, and BRIXINHOUSE 001171-001172.
[81] See attached Recorded Document Search 00015692-0001595.
[82] *Id.*
[83] See attached October 2000 Supplemental Preliminary Assessment Summary BRIX000748-001028.
[84] See attached Sep. 1, 1981 Ltr. re Lease 00035406. See also 00035405.

Other than this anecdotal information, to the best of Brix's knowledge, it has no information (other than aerial photographs of the Property)[85] about whether Arthur A. Riedel controlled access to the Property.

To the best of Brix's knowledge, it has no specific written documentation from before 1991 that describes a contemporaneous release or threatened release of a hazardous substance, pollutant, or contaminant at the Property. There are, however, indications that such releases may have taken place. *See* response to Question 71. However, as noted above, Knappton Towboat Company began to develop the Property near the end of the 1970's. According to interviews of Brix's longtime employees, when the Property was first developed and into the 1980s, it was common to see sheens and foams on the river that were not attributable to development on the Property. According to Brix's personnel, Brix and its corporate predecessors conscientiously reported these sheens and foams whether or not they were attributed to the Property. To the best of Brix's knowledge it has no written documentation regarding reports from this time period.

July 1981–September 21, 1993
According to the same title report, on or about July 6, 1981, Arthur A. Riedel transferred the Property by bargain and sale deed to the Siegfried Company, "an Oregon general partnership consisting of Arthur A. Riedel and Peter J. Brix" and Arthur A. Riedel, individually.[86] To the best of Brix's knowledge it has no information about this transfer. To the best of Brix's knowledge it has no information (other than aerial photographs of the Property)[87] about whether the Siegfried Company and Arthur Riedel controlled access to the Property except the September 1, 1981 Letter cited *supra*.[88]

On or about January 13, 1993, Brix discovered an upland subsurface lubricating oil leak in an UST product line. Brix reported the release to the DEQ (LUST File No. 26-93-0009), immediately halted dispensing operations from the lubrication oil USTs, and repaired the product line. Hahn and Associates, under contract to Brix, removed approximately 61 tons of petroleum contaminated soil from the vicinity of the leak and transported the excavated petroleum contaminated soil to TPS Technologies, Inc. for off-Property treatment and disposal. Groundwater was not encountered in this excavation. About 60 feet of steel product line were replaced with fiberglass piping prior to backfilling the excavation with clean fill.[89] The petroleum contaminated soil removal

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[85] See attached Recorded Document Search 00015692-00015695.
[86] The language inside the quotation marks is the language used in the title report.
[87] See attached Recorded Document Search 00015692-0001595.
[88] See attached Sep. 1, 1981 Ltr. re Lease 00035406. See also 00035405.
[89] See attached Subsurface Investigation by Hahn & Associates, Inc. 8/12/93 BRIX003110-3182. See also 01/13/93 L.U.S.T. Incident Information Form 00034807 and 01/19/93 letter from DEQ to Brooks Maritime [sic] 00034845. See also Site Map illustrating locus of the release 0014056–00014057 and 02/03/93 Initial Report Form for UST Cleanup Projects 00034831–34835 and 02/03/93 lab report from Hughes Analytical Laboratory to Hahn & Associates 00034836–34839, and DEQ report mailed 02/03/93

activities are further described in the Hahn and Associates report, dated February 26, 1993, titled Underground Storage Tank System Investigation, Brix Maritime Company, 9030 NW St. Helens Road, Portland, Oregon (Hahn, 1993a).[90]

In 1998, three of the five USTs located in the UST nest were certified as upgraded and retrofitted in accordance with OAR Chapter 340, Divisions 150 and 160, while the remaining two USTs were decommissioned and removed.[91] During the upgrading activities, petroleum contaminated soil of limited extent was observed around the diesel UST fill tubes (likely the result of historical overfills) and a suspected release was reported to the DEQ under File No. 26-93-0009. Due to overfill containment and other protective measures currently in place, it is unlikely that any potential releases have occurred since 1998.

In May 2002, the DEQ determined that the Property had met LUST cleanup standards and closed the LUST File for the Property. Please refer to Brix's response to Question 62 for additional discussion. UST decommissioning and upgrade/retrofit checklists are included as Appendices E and F in the October 2000 Supplemental Preliminary Assessment Summary (Anchor and Hahn, 2000).[92] A copy of the DEQ LUST Site Report is included as an attachment.[93] Documents relating to the discovery of these releases are being provided to EPA.[94]

To the best of Brix's knowledge, it has no specific written documentation dating before 1990 that describes a contemporaneous or threatened release of a hazardous substance, pollutant, or contaminant at the Property. There is, however, other evidence that such releases may have taken place. *See* answer to Question 71. As noted above, according to interviews of Brix's longtime personnel (Mark Troutman, Mike Walker, Dianne Farrier), when the Property had first been developed and into the 1980s, it was common to see sheens and foams on the river not attributable to the development of, or business activities on, the Property. According to Brix's personnel, Brix and its corporate

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00034844, and 02/08/93 letter from Hahn & Associates to DEQ 00034829–00034830, and 02/26/93 Underground Storage Tank system Investigation report 00034847–00034902.

[90] See attached 00034847-00034902. See also response to Question 62 for additional documents.

[91] See attached 3/31/99 response to DEQ's Site Assessment Review Notice 00015277-00015280 and 5/11/01 Work Plan for Underground Storage Tank Investigation by Hahn and Associates, Inc. BRIX001029 at 001029-001148 and DEQ's Site Assessment Program – Strategy Recommendation 00015361, 00015370 and the excerpt from DEQ's Environmental Cleanup site Information (ECSI) Database 000045626-00045628.

[92] See attached BRIX000748-001028.

[93] See attached 00035332.

[94] See attached 3/31/99 response to DEQ's Site Assessment Review Notice 00015277-00015280 and 5/11/01 Work Plan for Underground Storage Tank Investigation by Hahn and Associates, Inc. BRIX001029 at 001029-001148 and DEQ's Site Assessment Program – Strategy Recommendation 00015361-00015370 and the excerpt from DEQ's Environmental Cleanup site Information (ECSI) Database 000045626-00045628. .

predecessors conscientiously reported these sheens and foams whether or not they were attributed to the Property. To the best of Brix's knowledge it has no written documentation of these reports before 1990.

Brix has specific written information pertaining to similar reports made by Brix employees from 1990 to 2008. Brix has compiled information in Table 22-1 about releases for which there is some affirmative indication that (1) the spills occurred in the Investigation Area, and (2) the spills were somehow associated with (if not attributable to) the Property or Brix activities. Brix, as did its predecessors before it, has a policy of reporting all observed releases, whether or not they are attributable to the Property. As a result, not all of items in Table 22-1 are attributable to Brix activities (indeed, Brix tugboat operators were and are encouraged to report sheens and foams on their routes, even if the apparent releases do not involve the Property or Brix activities).

Many of the spills summarized in Table 22-1 were of small quantities of product, typically less than five gallons. Of the spills listed, several were releases that EPA attributed to Brix's activities even though written records do not contain any information tending to support this attribution. To the best of its knowledge, Brix does not believe there is any affirmative indication that this subset of spills can be attributed to the Property or Brix's activities. Please refer to Brix's responses to Questions 10, 62, 64 and 67 for additional discussion.[95] Products spilled or observed included small amounts of lubricating oil and greases, diesel fuel, hydraulic oil, used oil, and oily bilge fluids. Please also refer to Brix's Responses to Questions 62, 64 and 67 for additional discussion.

September 21, 1993—September 22, 1993
According to the same title report, on or about September 21, 1993, the Siegfried Company and Mr. Riedel transferred the Property by quitclaim deed to Peter J. Brix. Peter J. Brix held title to the Property for approximately one day before transferring title to Brix.

September 22, 1993—present
According to the same title report, on or about September 22, 1993, Brix took title to the Property by statutory warranty deed. Since that time, Brix has been responsible for controlling all access to the Property. Aside from the UST releases discovered in January 1993 and 1998 discussed above, and the spills reported by Brix as summarized in Table 22-1, to the best of Brix's knowledge, it has no information regarding any release or threatened release of a hazardous substance, pollutant, or contaminant at the Property during the period it has owned the Property. Brix bases this response on the knowledge of its employees, its corporate files and records, and its institutional knowledge.

[95] See attached Table 22-1.

CONFIDENTIAL BUSINESS INFORMATION

River Leases

Insofar as this Question may be read to require Brix to respond regarding any non-owned property in the Investigation Area, Brix objects that the Question is overbroad, unduly burdensome, and assumes that Brix has information about entities with which Brix and/or its corporate predecessors have only a lease relationship. Brix further objects to the extent that responding to the Question requires Brix to speculate or draw legal conclusions. Subject to and without waiving these or any other objections already asserted in this response or the General Objections, Brix provides a response as follows.

Brix assumes that the Question does not seek information about aquatic lands leased directly from the State of Oregon.

After a diligent search of its files and archives, Brix has insufficient information to permit it to provide a response to this Question as applied to the River Leases.

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11. Identify all prior operators of the Property, including lessors you are aware of for each Property identified in response to Question 4 above. For each such operator, further identify if known, and provide copies of any documents you may have regarding:

    a. the dates of operation;
    b. the nature of prior operations at the Property;
    c. all evidence that they controlled access to the Property; and
    d. all evidence that a hazardous substance, pollutant, or contaminant was released or threatened to be released at or from the Property during the period that they were operating the Property.
    e. all information regarding but not limited to the location, operations, and dates present on the Property for the following past operators:
        i. Twin City Barge, Inc.;
        ii. Brix Rafting and Sorting, Co.;
        iii. Knappton Corporation;
        iv. Arthur A. Riedel;
        v. Glen A. Widing;
        vi. Oregon Asset Co.; and
        vii. Portland Manufacturing Co.

Objections:

Brix objects to this Question on grounds it is vague, overbroad, ambiguous and unduly burdensome. Brix objects to the term "controlled access" as overbroad, vague and ambiguous. For the purposes of this response, Brix assumes that "controlled access" means any exercise of power or influence over access to operations as defined in *U.S. v. Bestfoods*. *See* 524 U.S. at 66-67. Brix further objects to the Question to the extent that it assumes that Brix has responsive knowledge or information about the activities of the entities named in parts (a) through (f). Brix also objects to this Question on the grounds that it seeks information about the properties at times when neither Brix nor its corporation predecessors owned or operated at those properties, and as a result, the Question seeks hearsay and other inherently unreliable information. Subject to and without waiving these objections or the General Objections, Brix provides the response that follows.

Response:

The Property

In this response, except as specifically indicated, Brix uses "Property" to mean the Owned Property and the associated Leased Aquatic Lands, collectively. Assuming that "operators" means "operators" as defined in *U.S. v. Bestfoods*, 524 U.S. 51, 66–67 (1998), Brix answers as follows.

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To the best of its knowledge, and constrained by the vagueness and ambiguity of the Question, Brix believes that it and certain of its corporate predecessors previously identified in these responses are the only entities which have conducted business activities at the Property in a routine manner since the late 1970s.

With respect to the entities named in subparts (iv), (v), (vi), and (vii), to the best of Brix's knowledge, it has no information with respect to those entities' operations (at the Property or elsewhere).

Twin City Barge, Inc.

a.	Dates of operation:	To the best of Brix's knowledge, Twin City Barge, Inc.'s relationship to the Property was solely by virtue of its ownership of Knappton Corporation, which it acquired in or about September 1982.[96] Brix is not aware whether or not Twin City Barge conducted business activities at the Property under the name Twin City Barge.
b.	Nature of the operation at the Property taking place during the period named in the response to subpart a	N/A
c.	All evidence that the operator identified in the left-hand column controlled access to the Property	N/A
d.	All evidence that a hazardous substance, pollutant, or contaminant was released or threatened to be released at or from the Property during the period that the operator identified in the left-hand column was operating the Property	N/A

Brix Rafting and Sorting Co.

a.	Dates of operation:	To the best of Brix's knowledge, Brix Rafting and Sorting never conducted operations at the Property. Brix Rafting and Sorting was engaged in the business of raft building and log sorting,

[96] See attached Agreement and Plan of Merger (9/29/82) 00015658-00015671.

		and operated in Troutdale, Oregon.
b.	Nature of the operation at the Property taking place during the period named in the response to subpart a	N/A
c.	All evidence that the operator identified in the left-hand column controlled access to the Property	To the best of Brix's knowledge, it has no information reflecting that the entity/ies that came to be known as Brix Rafting and Sorting ever controlled access to the Property.
d.	All evidence that a hazardous substance, pollutant, or contaminant was released or threatened to be released at or from the Property during the period that the operator identified in the left-hand column was operating the Property	N/A

Knappton Corporation

a.	Dates of operation:	Brix and its corporate predecessors have conducted activities at the Property essentially continuously since the late 1970s. Knappton Towboat Company (later known as Knappton Corporation) began to develop the Property in or about 1978.[97] Brix acquired the Owned Property in 1993, and business at the Property continues today.
b.	Nature of the operation at the Property taking place during the period named in the response to	The activities at the Property, then and now, largely consist of administrative activities including typical office administrative functions such as human resources, sales, and payroll and

[97] Report of Hearings Officer Decision," dated October 18, 1978 PLTF000072-000073 (reflecting that Knappton Towboat Company, as contract purchaser, made a request for "conditional use to construct office building, parking lot, underground tank storage, warehouse and open storage within the Willamette River Greenway). *See also* August 8, 1979 UST Permits issued by the City of Portland to "Knappton Tug Boat Co" [sic] [See attached BDS page printout of Permit Nos. 0472 and 0473 at 00015259-00015261.] *See also* City of Portland's Report of Building Inspection for 11/21/79 Certificate of Occupancy for the building, 00015286.

	subpart a	operational activities including tug mooring, minor tug maintenance, tug fueling, dispatch and crew rotation. No ship construction, ship retrofitting, tank cleaning, hull repair, sandblasting or hull scraping, hull painting, re-powering, or any major maintenance requiring a vessel to be out of the water is conducted by Brix either upland or overwater at the Property or anywhere within the Investigation Area. No hull painting is performed by Brix at the Property or anywhere within the Investigation Area. From time to time, some very minor touchup brush painting is performed on the decks and interiors of Brix vessels by Brix employees. Brix utilizes between ten and fifteen gallons of paint per vessel per year which is purchased in household quantities. This painting is done by hand, using a brush, and is performed on the decks and other portions of the superstructures of the vessels but is never done on the exterior hulls of the vessels. According to interviews of Brix employees who have been with the company throughout its time at the Property, the mix of administrative and operational activities taking place there has not changed since the Property was developed in the late 1970s even though the lines of business engaged in by the Brix and its corporate predecessors of businesses has changed over time.
c.	All evidence that the operator identified in the left-hand column controlled access to the Property	The perimeter fence around the Property was installed during the construction of Knappton's office at the Property in the late 1970s for general security purposes.
d.	All evidence that a hazardous substance, pollutant, or contaminant was released or threatened to be released at or from the Property during the	Brix interprets this subpart of the question as asking for information regarding evidence that a hazardous substance, pollutant, or contaminant was released or threatened to be released at or from the Property up through the date of these

period that the operator identified in the left-hand column was operating the Property	Responses. Brix and its corporate predecessors have conducted activities at the Property essentially continuously since the late 1970s. To the best of Brix's knowledge, Brix has no specific written documentation dating before 1990 that describes a contemporaneous release or threatened release of a hazardous substance, pollutant, or contaminant at the Property. However, according to interviews of Brix's longtime employees, when the Property was first developed and into the 1980s, it was common to see sheens and foams on the river not attributable to the development of, or business activities on, the Property. According to Brix's personnel, Brix and its corporate predecessors conscientiously reported these sheens and foams although they were not attributable to the Property or Brix's activities. After a diligent search, Brix has not uncovered any written documentation of these reports prior to 1990. Releases on the River Brix has compiled information in Table 22-1[98] about releases for which there is some affirmative indication that (1) the spills occurred in the Investigation Area, and (2) the spills were somehow associated with (if not attributable to) the Property or Brix activities. Brix, as did its predecessors before it, has a policy of reporting all observed releases, whether or not they are attributable to the Property. As a result, not all of items in Table 22-1 are attributable to Brix activities (indeed, Brix tugboat operators were and are encouraged to report sheens and foams on their routes, even if the apparent releases do not involve the Property or Brix activities). Many of the spills summarized in Table 22-1 were of small quantities of product, typically less than five gallons. Of the spills listed, several were releases that EPA attributed to Brix activities even though written records do not

[98] See attached Table 22-1.

contain any information tending to support this attribution. To the best of its knowledge, Brix does not believe that there is any affirmative indication that this subset of spills can be attributed to the Property or Brix's activities. Please refer to Brix's responses to Questions 10, 62, 64 and 67 for additional discussion.[99]

Upland Releases

On or about January 13, 1993, Brix discovered an upland subsurface release of lubricating oil from a leak in a UST product line. Brix reported the release to the DEQ (LUST File No. 26-93-0009), immediately halted dispensing operations from the lubrication oil USTs, and repaired the product line. Hahn and Associates, under contract to Brix, removed approximately 61 tons of petroleum contaminated soil from the vicinity of the leak and transported the excavated petroleum contaminated soil to TPS Technologies, Inc. for off-site treatment and disposal. Groundwater was not encountered in the excavation. About 60 feet of steel product line were replaced with fiberglass piping prior to backfilling the excavation with clean fill.

In 1998, three of the five USTs located in the UST nest were certified as upgraded and retrofitted in accordance with OAR Chapter 340, Divisions 150 and 160, while the remaining two USTs were decommissioned and removed. During the upgrading activities, petroleum contaminated soil of limited extent was observed around the diesel UST fill tubes (likely the result of historical overfills) and the suspected release was reported to the DEQ under File No. 26-93-0009. Due to overfill containment and other protective measures currently in place, it is unlikely that any potential releases have occurred since 1998.

In May 2002, the DEQ determined that the Property had met LUST cleanup standards and closed the LUST File for the Property. Please

[99] See attached Table 22-1.

		refer to Brix's responses to Questions 13-j, 62 and 64 for additional discussion. UST decommissioning and upgrade/retrofit checklists are included as Appendices E and F in the October 2000 Supplemental Preliminary Assessment Summary (Anchor and Hahn, 2000). A copy of the DEQ LUST Site Report is included as an attachment. Documents relating to the discovery of these releases are being provided to EPA.
Arthur A. Riedel		
a.	Dates of operation:	To the best of its knowledge, Brix has no information about how or whether Mr. Riedel operated the Property or controlled access to it.[100] As noted above, however, Mr. Riedel owned the Owned Property between February 1973 and July 1981. Furthermore, after July 1981, Mr. Riedel continued to be involved with the Property at least by virtue of his role in the Siegfried Company, an Oregon general partnership consisting of Mr. Riedel and Peter Brix, and as part owner of the Property.
b.	Nature of the operation at the Property taking place during the period named in the response to subpart a	
c.	All evidence that the operator identified in the left-hand column controlled access to the Property	Sep. 1, 1981 Ltr. Re Lease 00035406.
d.	All evidence that a hazardous substance, pollutant, or contaminant was released or threatened to be released at or from the Property during the period that the operator identified in the left-hand column was	To the best of its knowledge, Brix has no specific written documentation dating from this period that describes a contemporaneous release or threatened release of a hazardous substance, pollutant, or contaminant at the Property. According to interviews of Brix's longtime employees, when the Property was first

[100] As already noted above in the response to Question 10, the September 1, 1981 letter regarding the assignment and sublease of the aquatic lease seems to be pertinent to the question of whether Mr. Riedel had some control over access to the Property. Sep. 1, 1981 Ltr. re Lease 00035406.

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operating the Property	developed and into the 1980s, and not due to the development of the Property, it was common to see sheens and foams on the river. According to Brix's personnel, Brix and its corporate predecessors conscientiously reported these sheens and foams although they did not originate from the Property. To the best of its knowledge, Brix has no written documentation of these reports from this time period.

To the best of Brix's knowledge, Brix has no information regarding Glen A. Widing or his operations.

To the best of Brix's knowledge, Brix has no information regarding Oregon Asset Co. or its operations.

To the best of Brix's knowledge, Brix has no information regarding Portland Manufacturing Co. or its operations.

River Leases

Insofar as this Question may be read to require Brix to respond regarding any non-owned property in the Investigation Area, Brix objects that the Question is overbroad, unduly burdensome, and assumes that Brix has information about entities with which Brix and/or its corporate predecessors have only a lease relationship. Brix further objects to the extent that responding to the Question requires Brix to speculate or draw legal conclusions. Subject to and without waiving these or any other objections already asserted in this response or the General Objections, Brix provides a response as follows.

Brix assumes that the Question does not seek information about aquatic lands leased directly from the State of Oregon.

After a diligent search of its files and archives, Brix has insufficient information to permit it to provide a response to this Question as applied to the River Leases.

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12. If not included in response to any of the previous questions, please describe the purpose and duration of each aquatic lands lease Respondent or the operator of Respondent's Property(ies) ever obtained from the State of Oregon and provide a copy of each application for and aquatic lands lease obtained.

Objections:

Brix objects to this Question on the grounds that it is overbroad and exceeds EPA's authority pursuant to Section 104(e). Subject to and without waiving these objections or the General Objections, Brix provides the response that follows.

Response:

Assuming that Question 12 asks for leases obtained by current operators only and that the "purpose" referred to in Question 12 means the use authorized by the lease, Respondent answers as follows.

See the Response to Question 4.

The above-mentioned leases are attached to these responses. To the best of its knowledge, Brix has no information regarding leases entered into or held by prior owners.

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Section 3.0 Description of Each Property

13. Provide the following information about each Property identified in response to Question 4:

a. property boundaries, including a written legal description;
b. location of underground utilities (telephone, electrical, sewer, water main, etc.);
c. location of all underground pipelines whether or not owned, controlled or operated by you;
d. surface structures (e.g., buildings, tanks, pipelines, etc.);
e. over-water structures (e.g., piers, docks, cranes, etc.);
f. dry wells;
g. treatment or control devices (e.g., surface water, air, groundwater, Resource Conservation and Recovery Act (RCRA), Transfer, Storage, or Disposal (TSD), etc.);
h. groundwater wells, including drilling logs;
i. storm water drainage system, and sanitary sewer system, past and present, including septic tank(s) and where, when and how such systems are emptied and maintained;
j. subsurface disposal field(s), Underground Injection Control (UIC) wells, and other underground structures (e.g., underground storage tanks (USTs); and where they are located, if they are still used, and how they were closed. Also for any and all Property including Parcel R961110390, provide all information and documentation regarding but not limited to:
    i. any documentation regarding the five (5) USTs installed in 1979.
        1. further identify which tanks have been removed and/or upgraded pursuant to the underground storage tank regulations;
    ii. any documentation regarding the condition of UST product lines, including the 60 feet of steel UST lines that were replaced in 1993 as a response to a lube oil release.
k. any and all major additions, demolitions or changes on, under or about the Property, its physical structures or to the property itself (e.g., stormwater drainage, excavation work); and any planned additions, demolitions or other changes to the Property;
l. all maps and drawings of the Property in your possession; and
m. all aerial photo graphs of the Property in your possession.

Objections:

Brix objects to this Question on the grounds that it is vague, overbroad and ambiguous. Brix objects to the term "controlled" as overbroad, vague and ambiguous. For the purpose of this response, Brix assumes that "controlled" relates to any exercise of power or influence over operations as defined in *U.S. v. Bestfoods*. *See* 524 U.S. at 66-67. Subject to and without waiving these objections or the General Objections, Brix provides the response that follows.

Response:

The Property

In this response, except as specifically indicated, Brix uses "Property" to mean the Owned Property and the Associated Leased Aquatic Lands, collectively.

Owned Property

a. The Property boundaries and Property features are shown on Figures 13-1, 13-2, 13-3, and 22-1. The Property's address is 9030 NW St. Helens Road, Portland, Multnomah County, Oregon 97231 (Tax Lot No. 800, Alternative Account No. R961110390). The Property encompasses 4.46 acres and is located in the SW/4,NE/4 Section 11, Township 1 North, Range 1 West Willamette Meridian, more particularly described as follows:

   Beginning at a brass cap set at the intersection of the North line of the W.W. Baker Donation Land Claim and the Northeasterly line of the S.P.& S. Railroad Co. 60.00 foot right-of-way; thence South 40°42'25" East along said right-of-way a distance of 39.79 feet to a point of tangent curve, thence along the arc of a 1 1,429.16 foot radius curve to the left, through a central angle of 2'39'43", an arc distance of 53 1 .OO foot (the long chord bears South 42'02'17" East a distance of 530.95 feet) to a point; thence North 53'19'15" East a distance of 382.01 feet to the Willamette River Harbor Line; thence North 38'15'21" West along said Harbor line, a distance of 510.37 feet to a point; thence South 62'37'35" West parallel with said North line of the W.W. Baker Donation Land Claim, a distance of 406.17 feet to a point in the Northeasterly line of the S.P. & S. Railroad Co. 100.00 foot right-of-way; thence South 40'42'25" East along said right-of-way a distance of 10.89 feet to the North line of the W.W. Baker Donation Land Claim; thence South 62'37'35" West along said North line a distance of 20.55 feet to the point of beginning AND TOGETHER WITH a non-exclusive easement to build and maintain a road for access purposes over a strip of land 25 feet wide, said 25 foot wide strip being described as follows: Beginning at a point on the Northeasterly line of the S.P. & S. Railroad Co. 100 foot right-of-way which is North 40'42'25" West 10.89 feet from the intersection of said Northeasterly right-of-way line with the Northerly line of the W.W. Baker Donation Land Claim; thence South 40'42'25" East 10.89 feet to said intersection; thence South 1 1' East 40.35 feet to an iron rod in the Northeasterly line of the S.P. & S. Railroad Co. 60 foot right-of-way, said iron pipe being South 40'42'25" East 39.79 feet from the Northerly line of the W.W. Baker Donation Land Claim; thence along said Northeasterly line of the 60 foot railroad right-of-way, along the arc of an 11,429.16 foot radius curve to the left, the chord of which bears South 42'08'45" East, an arc distance of 574.05 feet to the an iron rod; thence continuing along said Northeasterly line of the 60 foot railroad right-of-way, South 43'35'05" East, 647.97 feet to the Northerly line of Block "C", SPRINGVILLE, being the Southerly line of what was formerly part of N. W. Ferry

Street; thence North 53'1 9' 15" East along said Southerly line of Old N.W. Ferry Street to a point which bears North 46'24'55" East 25 feet from, at right angles to, said railroad right-of-way; thence Northwesterly along a line parallel with and 25 feet Northeasterly from, when measured at right angles to, the Northeasterly right-of-way line of the S.P. & S. Railroad Co. 60 foot right-of- way, a distance of 1224 feet, more or less, to a point which bears North 48'17'35" East 25 feet from the iron rod first designated above, (said iron rod being on the Northeasterly line of the S.P. & S. Railroad Co. 60 foot right-of-way at a point which is south 40'42'25" East 39.79 feet from the Northerly line of the W.W. Baker Donation Land Claim); thence North 11' West 40.35 feet to a point which bears North 48'17'35" East 25 feet from the intersection of the Northerly line of the N.W. Baker Donation Land Claim with the Northeasterly line of the S.P. & S. Railroad Co. 100 foot right-of-way; thence North 40'42'25" West 5.0 feet, more or less, to a point which bears North 62'37'35" East from the point of beginning; thence South 62'37'35" West 26 feet, more or less, to the point of beginning.

b. Underground utilities present on the Property are electrical, natural gas, potable water supply, fire suppression water supply, sanitary sewer, stormwater, and telephone. The approximate locations of the underground utilities are shown on Figures 13-1 and 13-2.

c. In addition to the utility service lines identified in the response to 13.b and the underground storage tank system shown in the layout on Figures 13-1 and 13-3, a City of Portland stormwater line crosses the property as shown in Figure 13-1.

d. Surface structures consist of a 2-story office building, one-story maintenance office and storage building, a small flammable storage shed as shown on Figure 13-1.

e. Overwater features consist of mooring docks and a work barge as shown on Figures 13-1 and 22-1.

f. No current or historical drywells are or were located on the Property.

g. No current or historical treatment or control devices are on the Property.

h. Eight groundwater monitoring wells have been completed on the Property; their location is shown on Figure 13-1. One well (MW-8) was abandoned in 2007; seven monitoring wells are currently active. Drilling logs are included as an attachment to this response. No groundwater production wells have been drilled on the Property.

i. The layout of the Property's stormwater and sanitary sewer system is shown on Figure 13-1. *See also* 00015282; 00015284.

Sanitary waste from the Property has been discharged to the City of Portland sanitary sewer system since the Property was built. No septic systems have ever been present on the Property.

Precipitation falling on the Property is collected in two catchment areas. One catchment area encompasses the central and northwest areas of the Property and includes the office and employee parking lot and the UST nest area. Stormwater collected in this catchment area flows to three catch basins and drains through underground piping before discharging to the Willamette River through an outfall (designated Outfall A on Figure 13-1) located on the riverbank north of the office building. The other catchment area encompasses the southern portion of the Property and includes the maintenance and materials storage building and a parking and non-motorized equipment storage area. Stormwater collected in this catchment flows to two catch basins and drains through underground piping before discharging to the Willamette River through an outfall (designated Outfall B on Figure 13-1) located on the riverbank near the southern boundary of the Property.

The City of Portland owns and maintains a 48-inch diameter storm sewer line located within an easement beneath the Property near the northern Property boundary that discharges to the Willamette River through Outfall AAE427 (Figure 13-1). The catchment area for Outfall AAE427 appears to include runoff from NW St. Helens Road, the southbound approach from NW St. Helen Road to the St. Johns Bridge (NW Bridge Avenue), and from residential and undeveloped forested areas west of NW St. Helens Road (Portland Maps On-Line Database, 2008). The City storm sewer previously ran under the office building and discharged at a more southerly point. That outfall and pipeline were abandoned in 1998. The Property's stormwater system does not connect to the City's stormwater system.

Additional information related to the Property's stormwater system is presented in the *Stormwater System Sampling and Analysis Work Plan* (Hart Crowser, December 20, 2007), enclosed with this response.[101]

j. No subsurface disposal fields or underground injection control (UIC) wells (i.e., drywells) have ever been located on the Property to the best of Brix's knowledge. The UST system layout is shown on Figures 13-1 and 13-3. Five single-wall steel USTs were installed at the Property in 1979 (DEQ UST Property No. 7374). The UST system initially consisted of two 20,000-gallon diesel USTs, two 6,000-gallon lubrication oil USTs, and one 2,000-gallon gasoline UST. The gasoline UST and one of the lubricating oil USTs were decommissioned by removal in 1998. No holes or leaks were observed in the decommissioned USTs. The three remaining USTs were retrofitted and upgraded in 1998 with tank liners, cathodic protection, and spill and overfill prevention equipment to comply with DEQ's upgrade requirements. Internal

[101] See attached 00015288-00015330.

inspections of the USTs were performed prior to lining, and no holes or leaks were observed. The DEQ UST decommissioning and upgrade/retrofit checklists are included as *Appendices E and F in the Supplemental Preliminary Assessment Summary Report* (Anchor and Hahn, October 2000)[102].

The UST conveyance system initially runs underground, but emerges aboveground and runs above the riverbank to the work barge. The conveyances are steel pipes except for flexible hose couplings at each end of the work barge access ramp to allow for river level fluctuations and provide secondary containment. The flexible coupling hoses are replaced every five years and line pressure tests are conducted annually in accordance with Brix's maintenance standards and procedures.

In 1993, Brix detected and repaired a leak in an UST product line that involved the replacement of UST lines. Additional information about this event can be found in response to Question 62.

k. No major additions, demolitions or changes have occurred on, under or about the Property since the initial site development activities conducted in 1979-1980. A mobile office trailer was located on the Property from approximately 1987 to 1997. The office trailer was connected to sewer and water. It was not demolished, but was removed from the Property in approximately 1997. No major additions, demolitions or other changes are planned for the Property.

l. Property features are shown on Figures 13-1, 13-2, 13-3, and 22-1. *See also* 00015282; 00015284.

m. Aerial photographs dated 1936, 1940, 1961, 1972, 1977, 1978, 1982, 1988, 1990, 1994, 1998, 2002, and 2007 showing the Property and adjacent areas are included as attachments to this response.[103]

River Leases

Insofar as this Question may be read to require Brix to respond regarding any non-owned property in the Investigation Area, Brix objects that the Question is overbroad, unduly burdensome, and assumes that Brix has information about entities with which Brix and/or its corporate predecessors have only a lease relationship. Brix further objects to the extent that responding to the Question requires Brix to speculate or draw legal conclusions. Subject to and without waiving these or any other objections already asserted in this response or the General Objections, Brix provides a response as follows.

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[102] See attached BRIX000748-001028.

[103] See attached 00035374-00035380 and BRIXINHOUSE001091-001107, BRIXINHOUSE001129-001131, BRIXINHOUSE001135-001141, BRIXINHOUSE001151-001154, BRIXINHOUSE001159, and BRIXINHOUSE001171-001172.

T4 Spud Barge

Brix's T4 lease is of state-owned submerged and submersible lands. Accordingly, Brix's current lease with the Port refers to DSL Lease ML 10506, the terms of which are incorporated into Brix's current lease with the Port. DSL Lease ML 10506 is an Exhibit to Brix's lease, which is attached to these responses.[104] Note that the aquatic lands lease covers more land than Brix's T4 lease with the Port. That lease describes the subject aquatic lands as follows:

> PARCEL 2 (LOWER STORAGE)
>
> All state-owned submerged lands in the Willamette River lying in Sections 2, Township 1 North, Range 1 West, Willamette Meridian, City of Portland, Multnomah County, Oregon, more particularly described as follows:
>
> Beginning at Point "A" as described in PARCEL 1, thence North 44° 22' 06" West a distance of 137.62 feet to the TRUE POINT OF BEGINNING for PARCEL 2;
>
> Thence South 57° 50' 20" West a distance of 175.00 feet;
>
> Thence North 32° 09' 40" West a distance of 300.00 feet;
>
> Thence North 57° 50'20" East a distance of 175.00 feet;
>
> Thence South 32° 09'40" East a distance of 300.00 feet to the TRUE POINT OF BEGINNING, containing 52,500 square feet (1.21 acres, more or less).
>
> Total number of acres: 2.44 acres, more or less

Historical River Leases

To the best of Brix's knowledge, the Historical River Leases were as follows:

- Log storage and barge mooring at St. Johns Forest Products (Brix could find no source documents for this lease)

After a diligent search of its files and archives, Brix has insufficient information to permit it to provide a response to this Question with respect to this location.

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[104] See 00041525-415206 and 00041557.

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- A lease with Time Oil Co. at the Linnton Dock for loading Time Oil fuel for delivery to ships (Brix could find no source documents for this lease)

After a diligent search of its files and archives, Brix has insufficient information to permit it to provide further response to this Question with respect to this location.

- A lease of the Riedel "Red Dock" for use as a barge tie-off (lease documents are attached)[105]

A September 8, 1995 lease describes the leased premises as follows:

> That certain realty situated in North Portland, Oregon, consisting of the Riedel dock approximately 200 feet in length commonly known as the "Red Dock."[106]

The lease agreement includes a drawing/map which provides more information about the leased premises.[107]

After a diligent search of its files and archives, Brix has insufficient information to permit it to provide further response to this Question with respect to this location.

- A sublease with McCormick & Baxter Creosoting for the use of submerged lands as a barge tie-off (lease documents are attached, including aquatic lease ML-615)[108]

The McCormick lease incorporates aquatic lease ML-615's description of the leased premises. That description is as follows:

[insert from ML-615]

After a diligent search of its files and archives, Brix has insufficient information to permit it to provide further response to this Question with respect to this location.

- A moorage agreement with Schnitzer Steel Industries, Inc., for loading of barges (lease documents are attached, but Brix could not find a copy of the associated aquatic lease)[109]

A June 16, 1997 lease describes the leased premises as follows: "A portion of Schnitzer's slip at International Terminals, Portland, Oregon.[110]"

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[105] See attached 00041961-00041971.
[106] See attached 00041961 at 0041961-00041971.
[107] See attached 00041966 at 000416996961-00041971.
[108] See attached 00041976-00041991.
[109] See attached 00041865–00041868.
[110] See attached 00041865-00041868

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After a diligent search of its files and archives, Brix has insufficient information to permit it to provide further response to this Question with respect to this location.

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14. For Properties adjacent to the Willamette River, provide specific information describing the river-ward boundary of private ownership and where state aquatic lands and/or state-management jurisdiction begins. Provide a map that delineates the river-ward boundary of each Property.

Response:

Brix assumes that this Question asks for information about property owned by Brix.

The riverward boundary of the Owned Property is the Willamette River Harbor Line as shown in the Property description provided in the chain-of-title search for the Property (ref. Responses Nos. 4 and 13-a). Brix is also the current lessee of State of Oregon Submerged and Submersible Land Lease No. ML-9230. The leasehold description includes all state-owned and managed submerged lands adjacent to the Property, generally described as from Ordinary Low Water on the left descending bank of the Willamette River, approximately 175 feet riverward. A detailed description and map of the leasehold is provided in Submerged and Submersible Land Lease No. ML-9230 document dated May 1, 2000; included as an attachment[111]. The approximate Ordinary Low Water and River-ward boundary of Lease No. ML-9230 is shown on Figure 13-1. Additional discussion of current and historical aquatic leasehold interests held by Brix can be found in the response to Question 4.

To the best of Brix's knowledge, it has no information responsive to this Question relating to any property other than the Owned Property.

[111] See attached BRIXINHOUSE 001637-001652.

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15. For each Property, provide all reports, information or data you have related to soil, water (ground and surface), or air quality and geology/hydrogeology at and about each Property. Provide copies of all documents containing such data and information, including both past and current aerial photographs as well as documents containing analysis or interpretation of such data.

Response:

The Property

The following reports contain information related to soil, water (ground and surface), geologic, and hydrogeologic conditions at the Owned Property. Copies of these reports and aerial photographs (listed under Response No. 13-m) are included as attachments:[112]

Subsurface Investigation Report. Hahn and Associates (Hahn), August 12, 1993

Expanded Preliminary Assessment Summary. Anchor Environmental, LLC (Anchor) and Hahn, February 15, 2000.

Supplemental Preliminary Assessment Report. Anchor and Hahn, October 2000.

Work Plan for Underground Storage Tank Investigation. Hahn, May 11, 2001.

Sampling Results Report In Support of the Preliminary Assessment. Anchor and Hahn, September 2001.

First Quarter 2003 Progress Report. Anchor, April 15, 2003.

Second Quarter 2003 Progress Report. Anchor, July 15, 2003.

Remedial Investigation Work Plan. Anchor, November 26, 2003.

First Quarter 2005 Progress Report. Anchor, April 15, 2005.

Second Quarter 2005 Progress Report. Anchor, July 15, 2005.

Addendum 1, Remedial Investigation Work Plan. Anchor, August 2005.

Third Quarter Progress Report. Anchor, October 14, 2005.

Fourth Quarter Progress Report. Anchor, January 13, 2006.

PRP Information Summary (Draft). Lower Willamette Group, February 9, 2006.

Stormwater System Sampling and Analysis Work Plan. Hart Crowser, Inc. (Hart Crowser), December 20, 2007.

Progress Report – Second Quarter 2008. Hart Crowser, July 15, 2008

[112] See attached BRIX003110-003182; BRIX000716-000747; BRIX000748-001028; BRIX001029-001148; BRIX001149-001414; 00035682-0035713; BRIX001442-001461; 00045656-00045669; BRIX002789-002966; BRIXHINHOUSE000061-000262; BRIX003288-003343; BRIXHINHOUSE000263-396; BRIX003555-003749; 00015288-0015330; 00035434-00035522.

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River Leases

To the best of Brix's knowledge, it has no information responsive to this Question relating to any property other than the Owned Property.

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16. Identify all past and present solid waste management units or areas where materials are or were in the past managed, treated, or disposed (e.g., waste piles; landfills, surface impoundments, waste lagoons, waste ponds or pits, tanks, container storage areas, etc.) on each Property. For each such unit or area, provide the following information:
    a. map showing the unit/area's boundaries and the location of all known units/areas whether currently in operation or not. The map should be drawn to scale, if possible, and clearly indicate the location and size of all past and present units/areas;
        i. identify any outdoor drum storage areas. Information should include but not be limited to identifying the contents and quantity of material stored at the Property in drums.[113]
    b. dated aerial photograph of the site showing each unit/area;
    c. the type of unit/area (e.g., storage area, landfill, waste pile, etc.), and the dimensions of the unit/area;
    d. the dates that the unit/area was in use;
    e. the purpose and past usage (e.g., storage, spill containment, etc.);
    f. the quantity and types of materials (hazardous substances and any other chemicals) located in each unit/area;
    g. the construction (materials, composition), volume, size, dates of cleaning, and condition of each unit/area.

Response:

Brix assumes that the term "solid waste management unit" as used in this question is defined as in OAR 340-100-0010(2)(ii). Based on that assumption, the Owned Property has never had any solid waste management units or areas located upon it. No solid waste treatment or permanent disposal areas such as landfills, waste piles, waste lagoons or other impoundments have ever been present on the Owned Property.

To the best of Brix's knowledge, it has no information responsive to this Question relating to any property other than the Owned Property.

CONFIDENTIAL BUSINESS INFORMATION

17. If the unit/area described above is no longer in use, how was such unit/area closed and what actions were taken to prevent or address potential or actual releases of waste constituents from the unit/area.

Response:

As noted in the response to Question 16, solid waste management units/areas have never been present on the Owned Property.

To the best of Brix's knowledge, it has no information responsive to this Question relating to any property other than the Owned Property.

CONFIDENTIAL BUSINESS INFORMATION

18. For each Property, provide the following information regarding any current or former sewer or storm sewer lines or combined sanitary/storm sewer lines, drains, ditches, or tributaries discharging into the Willamette River:

    a. the location and nature of each sewer line, drain, ditch, or tributary;
    b. the date of construction of each sewer line, drain, ditch, or tributary;
    c. whether each sewer line, or drain was ever connected to a main trunk line;
    d. whether each sewer line, drain, ditch, or tributary drained any hazardous substance, waste, material or other process residue to the Willamette River; and
    e. provide any documentation regarding but not limited to the following on any and all outfalls to the Willamette River which are located within the boundaries of the Property(ies). Your response should include, but not be limited to:
        i. the areas serviced by the outfalls; and
        ii. the type of outfall (i.e., storm water or single Property operational).

Response:

The Property

In this response, except as specifically indicated, Brix uses "Property" to mean the Owned Property and the Associated Leased Aquatic Lands, collectively.

The layout of the Owned Property's stormwater and sanitary sewer system is shown on Figure 13-1.

Sanitary waste from the Owned Property flows through underground piping into a City of Portland sanitary sewer system trunk line. No sanitary waste is discharged from the Property to the Willamette River. Septic systems have never been present on the Property.

The City of Portland currently owns and maintains a 48-inch diameter storm sewer line and outfall located within an easement beneath the Owned Property near the northern property boundary that discharges to the Willamette River (Figure 13-1). The catchment area for the City's Outfall AAE427 appears to include runoff from NW St. Helens Road, the southbound approach from NW St. Helen Road to the St. Johns Bridge (NW Bridge Avenue), and from residential and undeveloped forested areas west of NW St. Helens Road (Portland Maps On-Line Database, 2008). The City storm sewer previously ran under the office building and discharged at a more southerly point. That outfall and pipeline were abandoned in 1998.

Precipitation falling on the Property is collected in two catchment areas. One catchment area encompasses the central and northwest areas of the Owned Property and includes the office and employee parking lot and the UST nest area. Stormwater collected in this catchment area flows to three catch basins and drains through underground piping before discharging to the Willamette River through an outfall (designated Outfall A on Figure

13-1) located on the riverbank north of the office building. The other catchment area encompasses the southern portion of the Owned Property and includes the maintenance and materials storage building and a parking and non-motorized equipment storage area. Stormwater collected in this catchment flows to two catch basins and drains through underground piping before discharging to the Willamette River through an outfall (designated Outfall B on Figure 13-1) located on the riverbank near the southern boundary of the Owned Property. The Owned Property's stormwater system does not connect to the City's stormwater system

Based on an aerial photograph review, the original City of Portland outfall and associated piping were likely installed in the mid 1970s. The Owned Property's stormwater and sanitary sewer lines were installed in 1979-1980 as part of the development of the Property. The current City outfall was installed in July 1998 to replace an historical City stormwater line and outfall that collapsed.

Additional information related to the Owned Property's stormwater system is presented in the response to Question 13.i and in the *Stormwater System Sampling and Analysis Work Plan* (Hart Crowser, December 20, 2007), enclosed with this response[114]. Supporting information regarding the City of Portland sanitary sewer and stormwater systems may be found on the City of Portland's on-line database (www.portlandmaps.com).

River Leases

To the best of Brix's knowledge, it has no information responsive to this Question relating to any property other than the Owned Property.

[114] See attached 00015288-0015330.

CONFIDENTIAL BUSINESS INFORMATION

19. Provide copies of any stormwater or property drainage studies, including data from sampling, conducted at these Properties on stormwater, sheet flow, or surface water runoff. Also provide copies of any Stormwater Pollution Prevention, Maintenance Plans, or Spill Plans developed for different operations during the Respondent's operation of each Property.

Response:

The Property

A Stormwater Pollution Prevention and Control (SPPC) plan is not required for the Owned Property. The Owned Property currently meets the conditions for No Exposure Certification and as such, a National Pollutant Discharge Elimination System (NPDES) stormwater permit is not required for the Property.

A stormwater system sampling and analysis plan was approved by the DEQ in January 2008 and is included with this response (*Stormwater System Sampling and Analysis Work Plan*. Hart Crowser, December 20, 2007).[115] Catch basin sediment sampling was completed in February 2008 and the resulting analytical data were submitted to DEQ for review and comment (summary data tables are included with this response). The DEQ has completed its review and has requested modifying the stormwater sampling program to include analysis for polychlorinated biphenyls (PCBs). Stormwater outfall sampling will be initiated with the first flush storm event in late summer or early fall 2008.

River Leases

To the best of Brix's knowledge, it has no information responsive to this Question relating to any property other than the Owned Property.

[115] *Id.*

CONFIDENTIAL BUSINESS INFORMATION

Section 4.0 Respondent's Operational Activities

20. Describe the nature of your operations or business activities at each Property. If the operation or business activity changed over time, please identify each separate operation or activity, the dates when each operation or activity was started and, if applicable, ceased.

Response:

The Property

In this response, except as specifically indicated, Brix uses "Property" to mean the Owned Property and the Associated Leased Aquatic Lands, collectively.

Brix and its corporate predecessors have run a tug boat and barging company at the Property essentially continuously since the late 1970s. Brix's vessels are moored at, dispatched from, and undergo minor routine maintenance at the Property.

Business activities on the Owned Property largely consist of administrative activities, which include typical office administrative functions such as human resources, sales, and payroll, and operational activities which include tug mooring, minor tug maintenance, tug fueling, dispatch and crew rotation. The nature of the business activities has not changed significantly since the Property was developed in the late 1970s.

Brix employees who have been with the company throughout its time at the Property confirm the mix of administrative and operational activities taking place at the Property has not changed since the Property was developed in the late 1970s.

River Leases

T4 Spud Barge

Brix and its corporate predecessors have leased mooring space at the Port of Portland's ("Port") Terminal 4 ("T4") on North Lombard Street since at least 1979. Brix and its corporate predecessors used this mooring space solely to temporarily moor empty barges awaiting assignment.[116] This space was not used for loading or unloading activities. Brix employees who have been with the company throughout its time at the Property confirm that the nature of Brix's use of the mooring space at T4 has not changed over time.

[116] See BRIXDOCS 00040899-00040901.

CONFIDENTIAL BUSINESS INFORMATION

Historical River Leases

After a diligent search, Brix has found very little information about these historical leases.

To the best of Brix's knowledge, the Historical River Leases were as follows:

- log storage and barge mooring at St. Johns Forest Products — time period unknown;
- a lease with Time Oil at the Linnton Dock for loading Time Oil fuel for delivery to ships — time period unknown;
- a lease of the Riedel "Red Dock" for use as a barge tie-off[117] — 1995 until unknown. After a diligent search, Brix found no further written information about whether Brix still leased this mooring space. Anecdotal information suggested that Brix no longer leases space at this location.
- A sublease with McCormick & Baxter Creosoting for the use of submerged lands as a barge tie-off — documents in Brix's files indicate that Knappton WA began tying off barges at this location in about 1978,[118] and terminated the lease in April 2000[119] (lease documents are attached, including aquatic lease ML-615).[120]
- A moorage agreement with Schnitzer Steel Industries, Inc., for loading of barges — Brix's files contain a lease dated June 16, 1997,[121] but after a diligent search, Brix was unable to find more information, documentary or anecdotal, about this agreement or about this space (lease documents are attached, but Brix could not find the associated aquatic lease). Anecdotal information suggested that Brix no longer leases space at this location.

[117] 00041961-00041971.
[118] See attached 00041991 at 00041976-0041991
[119] See attached 00041989 at 00041976-0041991
[120] See attached 00041976-00041991
[121] See attached 00041865–00041868.

CONFIDENTIAL BUSINESS INFORMATION

21. At each Property, did you ever use, purchase, generate, store, treat, dispose, or otherwise handle any waste, or material? If the answer to the preceding question is anything but an unqualified "no," identify:

a. in general terms, the nature and quantity of the waste or material so transported, used, purchased, generated, stored, treated, disposed, or otherwise handled;
   i. any and all information detailing the point of generation and composition of waste streams at the Property(ies);
b. the chemical composition, characteristics, physical state (e.g., solid, liquid) of each waste or material so transported, used, purchased, generated, stored, treated, disposed, or otherwise handled;
c. how each such waste or material was used, purchased, generated, stored, treated, transported, disposed or otherwise handled by you; and
d. the quantity of each such waste or material used, purchased, generated, stored, treated, transported, disposed or otherwise handled by you.

Objections:

Brix objects to this Question on the grounds that it is overbroad and exceeds EPA's authority pursuant to Section 104(e). Brix objects to the term "waste" as overbroad, vague and ambiguous. Subject to and without waiving these objections or the General Objections, Brix provides the response that follows.

Response:

Brix's inclusion of a material (in the general lay sense of "material") in this response does not constitute an admission that the material constitutes a "waste" or is "hazardous" under RCRA or any other applicable environmental laws and regulations.

The Property

In this response, except as specifically indicated, Brix uses "Property" to mean the Owned Property and the Associated Leased Aquatic Lands, collectively.

Brix responds that it has handled various materials at the Property. The materials Brix has handled at the Property include: (1) diesel fuel, (2) new and used lubricating oil, (3) hydraulic oil and other lubricants, (4) used oil, lubricant and fuel filters, (5) new and used kerosene, (6) cleaning fluids, (7) scrap metal, (8) miscellaneous solid waste, (9) bilge water, and (10) sanitary waste. The attached Material Safety Data Sheets (MSDS)[122] list the chemical and physical characteristics for materials used at the Property (See also

[122] See attached 00035394-00035398, 00035413-00035433, 00035523-00035528, 00035533-00035541, 00035580-00035638 and 00035655-00035742. See also 00016744-0016747 and 00016864-00016867 for MSDS kept at the property and BRIXINHOUSE 001281-001636 for MSDS kept electronically at the property.

Brix's response to Question 33). Brix's handling of each of those kinds of materials is discussed below. No other material is treated or disposed of on the Property.

Diesel Fuel – Diesel fuel is delivered to the Property by tanker truck (suppliers vary) and kept in two upland 20,000-gallon diesel USTs. Diesel fuel is transferred from upland USTs to tugboats through a fueling station located in a spill containment area located beneath a canopy at the north end of the work barge. Fuel is transferred from upland USTs via metal and flexible piping through a transfer pump, meter, and fueling hose to waiting vessels moored adjacent to the work barge. An employee is continuously present at the fueling station on the barge during fueling, and a second employee is stationed on the vessel at the fuel intake port to monitor the fueling operation. The vessel's fuel inlet is located in an enclosed area that is accessed from the breezeway (an open-air space between the living quarters and the engine room) through a portal. Thus, in the unlikely event an overfill occurs, fuel would be contained by the vessel's portal threshold. The fueling station is equipped with electronic shutoff switches, and absorbent pads and other spill containment materials are readily available in case of spills. The Property handles an approximate total of 2,125,000 gallons of diesel fuel product per year.

Lubricating Oil – 30-weight lubricating oil is delivered to the Property by tanker truck and kept in a 6,000-gallon upland UST. The lubricating oil is pumped through a conveyance system to the work barge for transfer to tug boats. The transfer pump, meter, and hose are located within metal spill containment in the covered fueling station.

Used lubrication oil from the tugboat's engine sumps is temporarily kept in two 1,000-gallon used oil tanks located in the hull of the work barge, pending removal and transport off the Property for recycling. Each tugboat engine oil change requires between 150 to 300 gallons of 30-weight lubricating oil. Oil changes are typically performed on each tug every 1,000 operating hours or approximately every three months, depending on tug utilization. Approximately 8,000 gallons of used lubricating oil are generated and recycled at the Property each year.

Hydraulic Oil and Other Lubricants - Hydraulic oil and lubricating products (e.g., gear oil and other heavy weight greases) are purchased in 55-gallon drums and/or 5-gallon containers (various suppliers), and kept on the covered working barge or in the maintenance building. In 2002, the property began using environmentally friendly, biodegradable oils (e.g., Chevron Clarity Hydraulic Oil AW ISO 32). Less than 500 gallons of hydraulic oil and lubricating grease are used each year. Other liquid products are kept within the maintenance building such as low-VOC paint and water treatment chemicals for non-engine equipment cooling water (i.e., Nalcool 3000 and Pencool 3000 – contains sodium hydroxide, nitrate, and/or tetraborate). These products are used in their entirety (per manufacture specifications) or are recycled. Glycol-based antifreeze is not used at the property; block heaters are used to warm engines on the tugboats.

Filters - Used oil/lube/fuel filters are temporarily kept in 55-gallon steel drums kept in the covered fueling station secondary containment area. In addition, used oil absorbent pads

are temporarily kept in drum-liner bags. When filled, the drums and drum liners are periodically (typically several times per year) transported off the Property for treatment and recycling.

Kerosene – Kerosene is used in a metals parts washer located in the maintenance shop on the work barge. Kerosene is purchased in 55-gallon drums (various suppliers) and kept in the upland maintenance building until needed. The used kerosene is drained from the parts washer into the used oil tanks, pending removal and transport off the Property for recycling. Approximately 100 gallons of kerosene is used and sent off the Property for recycling annually.

Solid Waste - General property trash is placed in a covered dumpster bin for pickup and off the Property disposal as a solid waste. Approximately three drum-liner bags are filled each year with oil absorbent pads or oil soaked rags. Cleaning rags are recycled through a commercial laundry. Highly soiled rags that cannot be laundered are placed in the trash dumpster for disposal as a solid waste.

Scrap Metal - Scrap metal is temporarily kept on the Property in a covered metal receptacle and periodically transported to a metals recycler.

Bilge Water - Bilge water from the tugboats is initially transferred to a 3,000-gallon tank within the hull of the work barge. The bilge water is held in this tank to allow oil to separate. The oil is transferred to one of the two used oil tanks. The remaining bilge water is transferred into a second 3,000-gallon tank and passed through a Sarex® filtration system before being discharged to the City of Portland sanitary sewer system. The configuration of the bilge tanks and oil/water filtration system is shown on Figure 22-1.

Sanitary Waste - Sanitary wastewater from one tugboat (P.J. Brix) is periodically pumped to a 1,000 gallon sanitary wastewater tank on the barge (the other tugboats at the Property are equipped with aerobic digesters, and following onboard treatment, discharge directly to surface water). When the sanitary wastewater level reaches approximately 70 percent capacity, a high level alarm is tripped and the sanitary waste is pumped from the tank directly to the City of Portland sanitary sewer system. Sanitary waste from the upland facilities (offices) is also discharged to the City's sanitary sewer system. Sanitary waste generated on the Property is not pretreated prior to discharge.

Estimated material quantities are included in responses above and/or are listed in responses to other questions; see, in particular, response to Question 26.

CONFIDENTIAL BUSINESS INFORMATION

River Leases

T4 Spud Barge

As Brix noted in its response to Question 4, Brix and its corporate predecessors used this mooring space solely to temporarily moor empty barges awaiting assignment. The T4 mooring space was not used for loading or unloading activities. Accordingly, to the best of its knowledge, neither Brix nor its corporate predecessors ever used, purchased, generated, stored, treated, disposed, or otherwise handled any waste or material at the T4 mooring space.

Historical River Leases

After a diligent search, Brix has found very little information about these historical leases. To the best of its knowledge, based on the available information and the recollections of Brix employees, the leases involving properties within the Investigation Area were as follows:

- Log storage and barge mooring at St. Johns Forest Products (Brix could find no source documents for this lease);
- A lease with Time Oil Co. at the Linnton Dock for loading Time Oil fuel for delivery to ships (Brix could find no source documents for this lease);
- A lease of the Riedel "Red Dock" for use as a barge tie-off (lease documents are attached);[123]
- A sublease with McCormick & Baxter Creosoting for the use of submerged lands as a barge tie-off (lease documents are attached, including aquatic lease ML-615);[124]
- A moorage agreement with Schnitzer Steel Industries, Inc., for loading of barges (lease documents are attached, but Brix could not find the associated aquatic lease).[125]

To the best of its knowledge regarding the Historical River Leases known to Brix at this time, only the lease at Time Oil may have involved activities possibly responsive to this Question. However, after a diligent search, Brix has been able to find information reflecting only that the loading of fuel took place at the Time Oil moorage. Aside from this information, to the best of Brix's knowledge, it has no information responsive to this Question relating to any property other than the Owned Property.

[123] See attached 00041961-00041971.
[124] See attached 00041976-00041991.
[125] See attached 00041865–00041868.

CONFIDENTIAL BUSINESS INFORMATION

22. Describe all activities at each Property that was conducted over, on, or adjacent to, the Willamette River. Include in your description whether the activity involved hazardous substances, waste(s), or materials and whether any such hazardous substances, waste(s), or materials were discharged, spilled, disposed of, dropped, or otherwise came to be located in the Willamette River.

Objections:

Brix objects to this Question on the grounds that it is overbroad and exceeds EPA's authority pursuant to Section 104(e). Brix objects to this Question on the grounds that it seeks information about the Property at times Brix did not own or operate at the Property and that it seeks hearsay and other unreliable information. Brix objects to the term "waste" as overbroad, vague and ambiguous. Subject to and without waiving these objections or the General Objections, Brix provides the response that follows.

Response:

Brix's inclusion of a material (in the general lay sense of "material") in this response does not constitute an admission that the material constitutes a "waste" or is "hazardous" under RCRA or any other applicable environmental laws and regulations.

The Property

In this response, except as specifically indicated, Brix uses "Property" to mean the Owned Property and the Associated Leased Aquatic Lands, collectively.

Based on a review of historical aerial photographs, placement of fill material (dredged sand) on the Owned Property occurred during the 1970s prior to Brix's acquisition of the Owned Property (copies of relevant historical aerial photographs are included as attachments to Response No. 13-m). Construction on the Owned Property began in 1979, and activities there have essentially remained the same from completion of construction to the present. Permanent overwater features include mooring docks and a covered work barge. Overwater activities include tugboat fueling and oil changes and routine maintenance and minor repairs. The work barge is used for general maintenance and has holding tanks for bilge water, used oil, and sanitary wastewater. No major repairs or maintenance, such as sand blasting or hull painting, or any work requiring a vessel to be out of the water, currently or historically have been performed at the Property. Property access is restricted and the dock is not available for use by the public or other entities. The overwater activities are further discussed below.

Fueling Activities - Diesel fuel is transferred from the upland USTs to tugboats through a fueling station located in a spill containment area located beneath a canopy at the north end of the work barge. Fuel is transferred from upland USTs via metal and flexible piping through a transfer pump, meter, and fueling hose to waiting vessels moored adjacent to the work barge. An employee is continuously present at the fueling station on the barge during

fueling, and a second employee is stationed on the vessel at the fuel intake port to monitor the fueling operation. The vessel's fuel inlet is located in an enclosed area that is accessed from the breezeway (an open-air space between the living quarters and the engine room) through a portal. Thus, in the unlikely event an overfill occurs, fuel would be contained by the vessel's portal threshold. The fueling station is equipped with electronic shutoff switches, and absorbent pads and other spill containment materials are readily available in case of spills.

Lubricating Oil Changes - Each tugboat engine oil change requires between 150 to 300 gallons of 30-weight lubricating oil. Oil changes are typically performed on each tug every 1,000 operating hours or approximately every three months, depending on tug utilization. The used oil is transferred from the tugboat into two 1,000-gallon used oil tanks located in the work barge. Virgin lubricating oil is pumped from the upland UST using procedures similar to the fuel transfer process. Both areas are contained and absorbent materials are readily available in the event of minor spills.

Work Barge Maintenance Activities - Routine equipment maintenance and minor repairs are performed on the work barge. The work barge is approximately 160 feet long and 35 feet wide and has been permanently moored at the Property since this Property was developed. The layout of the barge is shown on Figure 22-1.

The deck level of the barge is completely covered and includes a machine shop, mechanical work area, electric shop, lunch room, and tool and parts storage. Liquid chemical products kept and used in the maintenance shop include consumer-size quantities of lubricants, grease, and cleaners. Kerosene is used as a cleaning solvent in a parts washer; chlorinated solvents are not used at the property. The used kerosene (approximately 100 gallons per year) is drained into one of two used oil tanks (discussed below).

The below-deck areas are used for storage and contain heating oil, waste oil, bilge water, and sanitary waste oil holding tanks (Figure 22-1). A 275-gallon heating oil (diesel) tank supplies two heaters located in the deck level work space. Two 1,000-gallon used oil tanks located in the work barge are used to temporarily store used oil transferred from tugboats. The used oil tanks also receive used kerosene from the parts washer, other used petroleum products (e.g., hydraulic oil and greases) from the work barge, and oil skimmed off of bilge water from the bilge water oil/water separator system. The used oil is periodically transferred from the used oil tanks to tanker trucks staged shore side and transported off the Property for treatment and recycling.

Bilge water from the tugboats is transferred to a 3,000-gallon tank within the hull of the work barge and held to allow any oil that may be present to separate. Accumulated oil flows to one of the two used oil tanks. The remaining bilge water is transferred into a second 3,000-gallon tank and then passed through a Sarex® filtration system before being discharged to the City of Portland sanitary sewer system. The first bilge tank is typically cleaned every six months.

CONFIDENTIAL BUSINESS INFORMATION

Sanitary wastewater from one tugboat (P.J. Brix) is periodically pumped to a 1,000-gallon sanitary wastewater holding tank on the barge (the other tugboats stationed at the Property have aerobic digesters, and following onboard treatment, discharge directly to surface water). When the sanitary wastewater level reaches approximately 70 percent of capacity, a high level alarm is tripped and the sanitary waste is pumped to the City's sanitary sewer through a 3-inch flexible hose.

Observed Spills and Releases - Brix has compiled information in Table 22-1[126] about releases for which there is some affirmative indication that (1) the spills occurred in the Investigation Area, and (2) the spills were somehow associated with (if not attributable to) the Property or Brix activities. Brix, as did its predecessors before it, has a policy of reporting all observed releases, whether or not they are attributable to the Property. As a result, not all of items in Table 22-1 are attributable to Brix activities (indeed, Brix tugboat operators were and are encouraged to report sheens and foams on their routes, even if the apparent releases do not involve the Property or Brix activities).

Many of the spills summarized in Table 22-1 were of small quantities of product, typically less than five gallons. Of the spills listed, several were releases that EPA attributed to Brix activities even though written records do not contain any information tending to support this attribution. To the best of its knowledge, Brix does not believe that there is any affirmative indication that this subset of spills can be attributed to the Property or Brix's activities. Please refer to Brix's responses to Questions 10, 62, 64 and 67 for additional discussion.[127]

For spills to water associated with operations on the Property, the products spilled were petroleum and included lube oil, diesel fuel, bilge fluid, oily water and used oil. Observed sheens were reported to the U.S. Coast Guard; however, no action was taken for the majority of the releases due to the small size of the spill (typically the releases to water were five gallons or less) or the unknown source of the sheens.

Spill Containment Procedures - The barge has six watertight compartments and spillage from the deck or leaks from the waste holding tanks, were they to occur, would be contained inside the barge and not released to surface water. Spill kits are located on the tugboats, adsorbent pads/booms are present at the barge fueling station, and spill containment booms are located at the end of each dock. According to Brix personnel, if a spill occurs, the procedures to address the spill are as follows: ensure the health and safety of employees; secure the source of the spill; contact dispatch, appropriate agencies, and cleanup firms; initiate containment (deploy booms); and clean up.

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[126] See attached Table 22-1.
[127] See attached Table 22-1.

CONFIDENTIAL BUSINESS INFORMATION

River Leases

The purposes (log storage, mooring, etc.) for which spaces were leased under the River Leases are such that most of the activity taking place at any one of the River Leases was conducted over, on, or adjacent to the Willamette. However the nature of these activities was also such that no materials were handled, for the most part. Among the River Leases known to Brix at this time, there are two at which activities responsive to this Question may have taken place.

To the best of its knowledge regarding the Historical River Leases known to Brix at this time, only the leases at Time Oil and Schnitzer Steel (loading and unloading) may have involved activities possibly responsive to this Question. However, after a diligent search, Brix has been unable to find any information beyond sparse anecdotal information reflecting that the loading of fuel had taken place at the Time Oil moorage. Aside from this information, to the best of Brix's knowledge, it has no information responsive to this Question relating to any property other than the Owned Property.

CONFIDENTIAL BUSINESS INFORMATION

23. For each Property at which there was or is a mooring facility, dock, wharf or any over-water structure, provide a summary of over-water activities conducted at the structure, including but not limited to, any material loading and unloading operations associated with vessels, materials handling and storage practices, ship berthing and anchoring, ship fueling, and ship building, retrofitting, maintenance; and repair.

Response:

The Property

In this response, except as specifically indicated, Brix uses "Property" to mean the Owned Property and the Associated Leased Aquatic Lands, collectively.

The Property is a mooring and dispatch property for tugboats and barges. Tugboats and transport barges are temporarily moored at the Property pending dispatch orders, fueling and routine maintenance, and crew rotation. Barge loading or unloading operations are not performed at the Property. A stationary covered work barge is permanently moored in the Willamette River between the mooring docks and shoreline. Fueling, oil changing, bilge water disposal, and routine maintenance and repairs are conducted within covered and contained areas of the work barge and tugs. Additionally, the waste oil and bilge tanks on the work barge are periodically emptied by pumping the contents through flexible hoses to trucks stationed on the shore. See Brix's response to Question 22.

River Leases

T4 Spud Barge

Brix and its corporate predecessors used this mooring space solely to temporarily moor empty barges awaiting assignment. The T4 mooring space was not used for loading or unloading activities.

Historical River Leases

To the best of its knowledge regarding the Historical River Leases known to Brix at this time, only the leases at Time Oil and Schnitzer Steel (loading and unloading) may have involved activities possibly responsive to this Question. However, after a diligent search, Brix has been unable to find any information beyond sparse anecdotal information reflecting that the loading of fuel had taken place at the Time Oil moorage. Aside from this information, to the best of Brix's knowledge, it has no information responsive to this Question relating to any property other than the Owned Property.

CONFIDENTIAL BUSINESS INFORMATION

24. Describe all activities conducted on Leased Aquatic Lands at each Property. Include in your description whether the activity involved hazardous substances, waste(s),or materials and whether any such hazardous substances, waste(s), or materials were discharged, spilled, disposed of, dropped, or otherwise came to be located on such Leased Aquatic Lands.

Response:

The Property

Activities performed on the Associated Leased Aquatic Lands are described in Brix's responses to Questions 21-23. Aquatic lease information is presented in Response to Question 4.

River Leases

To the best of its knowledge, as Brix runs a tugboat and barging business, virtually all of its leases in the Investigation Area involve "activities" (used in its general lay sense) on Leased Aquatic Lands. Assuming that all of the Historical River Leases were associated with Leased Aquatic Lands, the information Brix gathered indicates that only the leases at Time Oil and Schnitzer Steel (loading and unloading) may have involved activities possibly responsive to this Question.

CONFIDENTIAL BUSINESS INFORMATION

25. Please describe the years of use, purpose, quantity, and duration of any application of pesticides or herbicides on each Property during the period of investigation (1937-present). Provide the brand name of all pesticides or herbicides used.

Objections:

Brix objects to this Question to the extent that it seeks information about the Property at times Brix did not own, lease or operate at the Property. Consequently, Brix objects to this Question on the grounds that it seeks hearsay and other unreliable information. Without waiving these objections and subject thereto, Brix states the following:

Response:

The Property

In this response, except as specifically indicated, Brix uses "Property" to mean the Owned Property and the Associated Leased Aquatic Lands, collectively.

Bulk quantities of pesticides or herbicides are not stored or used at the Property. Occasional use of consumer available aerosol insecticides is used to control pests in the maintenance building. These are the only known uses of pesticides or herbicides on the Property.

River Leases

T4 Spud Barge

Brix has no information indicating that any herbicides or pesticides were used at this location during the period of time Brix and its predecessors leased mooring space at T4. Given that Brix uses the mooring space to temporarily moor empty barges, Brix believes it is highly unlikely that any pesticides or herbicides are used at its leased space at T4. To the best of its knowledge, Brix does not currently and has not historically used pesticides or herbicides at the T4 Spud Barge.

Historical River Leases

Brix has no information indicating that any herbicides or pesticides were used at any of the Historical River Leases locations. Given Brix's understanding of how the leased spaces were used, and based on the limited information available to Brix, Brix believes that it is highly unlikely that any pesticides or herbicides were used at any of these locations.

CONFIDENTIAL BUSINESS INFORMATION

26. Describe how wastes transported off the Property for disposal are and ever were handled, stored, and/or treated prior to transport to the disposal facility.

Objections:

Brix objects to this Question on the grounds that it is overbroad and exceeds EPA's authority pursuant to Section 104(e). Brix objects to the term "waste" as overbroad, vague and ambiguous. Subject to and without waiving these objections or the General Objections, Brix provides the response that follows.

Response:

Brix's inclusion of a material (in the general lay sense of "material") in this response does not constitute an admission that the material constitutes a "waste" or is "hazardous" under RCRA or any other applicable environmental laws and regulations.

The Property

In this response, except as specifically indicated, Brix uses "Property" to mean the Owned Property and the Associated Leased Aquatic Lands, collectively.

Materials handled on the Property prior to transport or conveyance to a disposal or treatment facility are: used oil and lubricants, used kerosene, bilge water, sanitary waste, used oil and fuel filters, scrap metal, and miscellaneous solid and other wastes. The handling procedures prior to transporting these materials off the Property are described below. Additional information regarding materials handling, storage, and disposal procedures is presented in Brix's responses to Questions 21 and 22.

Used Oil and Other Lubricants - Used lubrication oil from the tugboats is temporarily kept in two 1,000-gallon tanks located in the hull of the work barge, pending removal and transport off the Property for recycling. The used oil tanks also receive used kerosene from the parts washer, other used petroleum products (e.g., hydraulic oil and greases) from the work barge, and oil skimmed off of bilge water from the bilge water oil/water separator system. The used oil mixture is periodically transferred from the used oil tanks to tanker trucks staged shore side and transported off the Property for treatment and recycling. Approximately 8,000 gallons of used oil mixture are generated and recycled each year.

Used Kerosene - Kerosene is used in a metals parts washer located in the maintenance shop on the work barge. The used kerosene is drained from the parts washer into the used oil tanks, pending removal and transport off the Property for recycling. Approximately 100 gallons of kerosene is used annually and recycled with the used oil.

Bilge Water - Bilge water from the tugboats is initially transferred to a 3,000-gallon tank within the hull of the work barge. The bilge water is held in this tank to allow for any oil

present to separate. Accumulated oil flows to one of the two used oil tanks. The remaining bilge water is transferred into a second 3,000-gallon tank and then passed through a Sarex® filtration system before being discharged to the City of Portland sanitary sewer system.

Sanitary Waste - Sanitary waste from one tugboat (P.J. Brix) is periodically transferred to a 1,000 gallon sanitary wastewater tank on the barge (the other tugboats stationed at the Property are equipped with aerobic digesters, and following onboard treatment, discharge directly to surface water). When the sanitary wastewater level reaches approximately 70 percent of capacity, a high level alarm is tripped and the sanitary waste is pumped to the City's sanitary sewer system. Sanitary waste from the upland facilities (offices) discharges on an ongoing basis (i.e. upland sanitary waste is not batched prior to discharge) to the City's sanitary sewer system. Sanitary waste generated on the P.J. Brix or upland Property is not pretreated prior to discharge.

Used Filters - Used oil and fuel filters are temporarily placed into 55-gallon steel drums kept in the covered fueling station secondary containment area of the work barge. In addition, used oil absorbent pads are temporarily kept in drum-liner bags. When filled, the drums and drum liners are periodically (typically several times per year) transported off the Property for treatment and recycling.

Scrap Metal - Scrap metal is temporarily kept on the Property in a covered metal receptacle and periodically transported to a metals recycler.

Miscellaneous Solid and Other Wastes – General Property trash, typically consisting of paper and office waste, is placed in a covered dumpster bin for pickup and off the Property disposal as a solid waste. Cleaning rags are generally recycled through a commercial laundry. Highly soiled rags that cannot be laundered are placed in the trash dumpster and disposed of as a solid waste. Non-petroleum based products, such as AC 500, a phosphoric acid based liquid cleaner, and other consumer available environmentally friendly cleaning products, are used to clean equipment. Consumer available dish soaps, laundry detergents, and household cleaning products are also used on the Property. After use, the liquid wastewater containing residual cleaning products is handled and disposed of as sanitary waste.

River Leases

T4 Spud Barge

To the best of its knowledge, no waste is involved in Brix's activities (used in its general lay sense) at the T4 Spud Barge.

CONFIDENTIAL BUSINESS INFORMATION

Historical River Leases

After a diligent search, Brix has discovered no information indicating that its, Knappton WA's, or Knappton DE's activities (used in its general lay sense) at the Historical River Leases involved any waste. Given Brix's understanding of the use of the leased spaces, and based on the limited information available to Brix, Brix believes that it is highly unlikely that any activities at the Historical River Leases involved any wastes.

CONFIDENTIAL BUSINESS INFORMATION

27. Has Respondent ever arranged for disposal or treatment or arranged for transportation for disposal or treatment of materials to any Property (including the Willamette River) within the Investigation Area? If so, please identify every Property that Respondent's materials were disposed or treated at in the Investigation Area. In addition, identify:

a. the persons with whom the Respondent made such arrangements;
b. every date on which Respondent made such arrangements;
c. the nature, including the chemical content, characteristics, physical state (e.g., solid, liquid), and quantity (volume and weight) of all materials involved in each such arrangement;
d. in general terms, the nature and quantity of the non-hazardous materials involved in each such arrangement;
e. in general terms, the nature and quantity of any hazardous materials involved in each such arrangement;
f. the owner of the materials involved in each such arrangement, if not Respondent;
g. all tests, analyses, analytical results or manifests concerning each hazardous material involved in such transactions;
h. the address(es) for each Property, precise locations at which each material involved in such transactions actually was disposed or treated;
i. the owner or operator of each facility at which hazardous or non-hazardous materials were arranged to be disposed at within the Investigation Area;
j. who selected the location to which the materials were to be disposed or treated;
k. who selected the Property as the location at which hazardous materials were to be disposed or treated; and
1. any records of such arrangement(s) and each shipment.

Objections:

Brix objects to this Question on the grounds that it is overbroad and exceeds EPA's authority pursuant to Section 104(e). Subject to and without waiving these objections or the General Objections, Brix provides the response that follows.

Response:

No. Brix has not arranged for the disposal or treatment of hazardous materials to any Property within the Investigation Area.

CONFIDENTIAL BUSINESS INFORMATION

28. Describe the plants and other buildings or structures where Respondent carried out its operations at each Property within the Investigation Area (excluding locations where ONLY clerical/office work was performed).

Objections:

Brix objects to this Question on the grounds that it is vague, overbroad and ambiguous. Brix objects to the use of the terms "plants," "buildings" or "structures" as vague and ambiguous. For the purposes of this response, Brix assumes that this Question seeks information about upland structures. Subject to and without waiving these objections or the General Objections, Brix provides the response that follows.

Response:

The Property

In this response, except as specifically indicated, Brix uses "Property" to mean the Owned Property and the Associated Leased Aquatic Lands, collectively.

Buildings and other Property features are shown on Figure 13-1. Upland structures and features consist of a two-story administration office building, a maintenance office and materials storage building, and several small sheds. Three USTs are situated in a single tank nest located northwest of the maintenance building. Permanent on-water features include mooring docks and a covered work barge, permanently moored adjacent to the embankment. The entire Owned Property is surfaced with asphalt, concrete, or riprap (along the river embankment), except for minor landscaped areas around the Property's perimeter and adjacent to the office building. Security fencing with a lockable entrance gate surrounds the Property except for the area fronting the Willamette River. The operational facilities and activities are described below. Additional operational details are presented in the responses to Questions 13, 14, 18, 20, 22, 23, and 24.

Maintenance Building and Yard - The maintenance building houses the maintenance manager office and maintenance records, and is used for covered material storage. Materials kept within the building include equipment parts and supplies, as well as small quantities of petroleum products, lubricants, cleaning supplies, and drums with used materials (e.g., oil filters) pending transport off the Property. The outside storage yard is used to store non-motorized equipment, large metal parts, tires (for bumpers on the tugs), cables, and ropes. Covered trash receptacles and metal scrap bins are also located in the yard. No liquid products are kept outside in the yard.

Storage Sheds - A flammable materials storage shed is located along the southeastern perimeter of the Property. The shed contains two flammable storage cabinets that are used to store small containers (five gallons or less) of petroleum fuels and consumer-size quantities of flammable products (e.g., paint thinners). There are also two metal sheds located along the work barge access road. These sheds separately contain oxygen and

acetylene welding gas cylinders.

Underground Storage Tanks - Currently, three USTs (two diesel and one lubricating oil) are situated in a single tank nest located northwest of the maintenance building. Diesel fuel and lubricating oil are transferred from the upland USTs to the tugboats through a conveyance system to a fueling station located in a spill containment area located beneath a canopy at the north end of the work barge.

River Leases

To the best of its knowledge, Brix's activities (in the general lay sense) at the T4 Spud Barge and the Historical River Leases did not involve any upland structures.

CONFIDENTIAL BUSINESS INFORMATION

29. Provide a schematic diagram or flow chart that fully describes and/or illustrates the Respondent's operations on each Property.

Objections:

Brix objects to the Question on the grounds that it requires the creation of documents that did not exist prior to the Request. Subject to and without waiving these objections or the General Objections, Brix provides the response that follows.

Response:

Since the only Property on which Brix conducts activities which involve activities of any complexity is the Owned Property, and assuming that "operations" means operations as defined in *U.S. v. Bestfoods*, 524 U.S. 51, 66-67 (1998), Brix provides a schematic diagram of its activities on the Owned Property and the Associated Leased Aquatic Lands consistent with Brix's general objections.

CONFIDENTIAL BUSINESS INFORMATION

30. Provide a brief description of the nature of Respondent's operations at each location on each Property including:

a. the date such operations commenced and concluded; and
b. the types of work performed at each location, including but not limited to the industrial, chemical, or institutional processes undertaken at each location.

Objections:

Brix objects to this Question on the grounds that it is vague, overbroad and ambiguous. Brix objects to the use of the terms "industrial," "chemical," and "institutional processes" on the grounds that it is vague and ambiguous. Subject to and without waiving these objections or the General Objections, Brix provides the response that follows.

Response:

The Property

In this response, except as specifically indicated, Brix uses "Property" to mean the Owned Property and the Associated Leased Aquatic Lands, collectively.

Brix and its corporate predecessors have run a tug boat and barging company at the Property essentially continuously since the late 1970s. Brix's vessels are moored at, dispatched from, and undergo minor routine maintenance at the Property.

Construction on the Property began in the late 1970's and Brix's business activities have continued to the present with no significant changes. Brix's business activities there include tug and barge scheduling and dispatch, fueling and lubrication, and routine maintenance. No major repairs or maintenance, such as sand blasting, hull painting, or any work requiring a vessel to be out of the water, currently and historically have ever been performed at the Property. Only Brix's tugs and barges berth at the Property. The dock, historically and currently, is not used by other companies or the public nor is it used for loading or unloading barges. Figure 29-1 shows the different areas of the Property.

Fueling and Lubricating Oil Transfer - Diesel fuel and lubricating oil are transferred from upland USTs to tugboats through a fuel/oil transfer station located in a spill containment area located beneath a canopy at the north end of the work barge. Fuel is transferred from upland USTs via metal and flexible piping through a transfer pump, meter, and fueling hose to waiting vessels moored adjacent to the work barge. An employee is continuously present at the fueling station on the barge during fueling, and a second employee is stationed on the vessel at the fuel intake port to monitor the fueling operation. The vessel's fuel inlet is located in an enclosed area that is accessed from the breezeway (an open-air space between the living quarters and the engine room) through a

portal. Thus, in the unlikely event an overfill occurs, fuel would be contained by the vessel's portal threshold. The fueling station is equipped with electronic shutoff switches, and absorbent pads and other materials are readily available in case of spills.

Lubricating Oil Change - Tugboat engine oil changes are performed on each tug approximately every 1,000 operating hours or approximately every three months depending on utilization. Each tugboat oil change requires between 150 to 300 gallons of 30-weight lubricating oil. The used oil is transferred from the engine oil sump into two 1,000-gallon used oil tanks located in the work barge. Both areas are contained and absorbent materials are readily available in the event of minor spills.

Work Barge Maintenance - Routine equipment maintenance and minor repairs are performed on the work barge. The work barge is approximately 160 feet long and 35 feet wide and has been permanently moored at the Property the Property was developed. The layout of the barge is shown on Figure 22-1.

The deck level of the barge is completely covered and includes a machine shop, mechanical work area, electric shop, lunch room, and tool and parts storage. Liquid chemical products kept and used in the maintenance shop include consumer-size quantities of lubricants, grease, and cleaners. Kerosene is used as a cleaning solvent in a parts washer; chlorinated solvents are not reportedly used at the property. The used kerosene (approximately 100 gallons per year) is drained into one of two used oil tanks.

The below-deck areas are used for storage and contain heating oil, waste oil, bilge water, and sanitary waste oil holding tanks. A 275-gallon heating oil (diesel) tank supplies two heaters located in the deck level work space. Two 1,000-gallon used oil tanks located in the work barge are used to temporarily store used oil transferred from tugboats. The used oil tanks also receive oil skimmed from bilge water, used kerosene from the parts washer, other used petroleum products (e.g., hydraulic oil and greases) from the work barge. The used oil is periodically transferred from the waste oil tanks to tanker trucks staged shore side and transported off the Property for treatment and recycling.

Maintenance Building and Outdoor Storage Yard - The maintenance building houses the maintenance manager office and maintenance records, and is used for covered liquid and bulk dry material storage. The outside storage yard is used to store non-motorized equipment, large metal parts, tires (for bumpers on the tugs), cables, and ropes. Covered trash receptacles and metal scrap bins are also staged in the yard for periodic pick-up by a hauler. No liquid products are stored in the yard.

Scheduling and Dispatch and General Administration – Property management, administrative functions and tugboat and barge scheduling and dispatch are located in the Property's office building.

CONFIDENTIAL BUSINESS INFORMATION

River Leases

T-4 Spud Barge

After a diligent search through its documents and after interviews of its employees, Brix has been unable to find any information indicating that Brix or its corporate predecessors conducted any activities that would be considered "operations" at the Spud Barge. Brix (like its corporate predecessors) only ties off empty barges until they are assigned and towed.

Historical River Leases

- log storage and barge mooring at St. Johns Forest Products — time period unknown;
- a lease with Time Oil at the Linnton Dock for loading Time Oil fuel for delivery to ships — time period unknown;
- a lease of the Riedel "Red Dock" for use as a barge tie-off[128] — 1995 until unknown termination date. After a diligent search, Brix found no further written information about whether Brix still leased this mooring space. Anecdotal evidence suggested that Brix no longer leases space at this location.
- A sublease with McCormick & Baxter Creosoting for the use of submerged lands as a barge tie-off — documents in Brix's files indicate that Knappton WA began tying off barges at this location in about 1978,[129] and terminated the lease in April 2000[130] (lease documents are attached, including aquatic lease ML-615)[131]
- A moorage agreement with Schnitzer Steel Industries, Inc., for loading of barges — Brix's files contain a lease dated June 16, 1997,[132] but after a diligent search, Brix was unable to find more information, documentary or anecdotal, about this agreement or about this space (lease documents are attached, but Brix could not find the associated aquatic lease).[133]

[128] 00041961-00041971.
[129] See attached 00041991 at 00041976-00041991.
[130] See attached 00041989 at 00041976-00041991.
[131] See attached 00041976-00041991.
[132] See attached 00041865–00041868.
[133] See attached 00041865–00041868.

31. If the nature or size of Respondent's operations changed over time, describe those changes and the dates they occurred.

Response:

The Property

No significant changes in operational activities have occurred since the Property was developed. The size and number of administrative staff on-Property has fluctuated, such as when a temporary office trailer was located on the Property, but the general nature of the administrative and operational activities taking place at the Property has not changed.

River Leases

T4 Spud Barge

There has been no change in the nature of Brix's activities at the T4 Spud Barge, but the frequency of Brix's use of the T4 mooring space has decreased since it was first leased.

Historical River Leases

Brix has very limited information about the Historical River Leases. To the best of its knowledge, Brix no longer leases any of the Historical River Leases.

CONFIDENTIAL BUSINESS INFORMATION

32. List the types of raw materials used in Respondent's operations, the products manufactured, recycled, recovered, treated, or otherwise processed in these operations.

Objections:

Brix objects to this Question on the grounds that it is overbroad, vague, and ambiguous and assumes Brix "manufactured, recycled, recovered, treated, or otherwise processed" "raw materials." Brix objects to the use of the term "use" as it is vague and ambiguous. For the purposes of this response, Brix assumes that "use" does not include Brix's transportation of "raw materials" on behalf of its customers. Subject to and without waiving these objections or the General Objections, Brix provides the response that follows.

Response:

Brix does not manufacture, recover, treat or process materials in the Investigation Area. Materials used on the Property are listed in the response to Question 22.

CONFIDENTIAL BUSINESS INFORMATION

33. Provide copies of Material Safety Data Sheets (MSDS) for materials used in the Respondent's operations.

Objections:

Brix objects to this Question on the grounds that it is overbroad, vague, and ambiguous. Brix objects to the use of the terms "use" and "materials" as vague, ambiguous and overbroad. Subject to and without waiving these objections or the General Objections, Brix provides the response that follows.

Response:

Responsive documents are included as attachments to this response.[134]

[134] See attached 00035394-00035398, 00035413-00035433, 00035523-00035528, 00035533-00035541, 00035580-00035638 and 00035655-00035742. See also 00016744-00016747, 00016864-00016867 for MSDS kept at the property and BRIXINHOUSE 001281-001636 for MSDS kept electronically at the property.

CONFIDENTIAL BUSINESS INFORMATION

34. Describe the cleaning and maintenance of the equipment and machinery involved in these operations, including but not limited to:

a. the types of materials used to clean/maintain this equipment/machinery;
b. the monthly or annual quantity of each such material used;
c. the types of materials spilled in Respondent's operations;
d. the materials used to clean up those spills;
e. the methods used to clean up those spills; and
f. where the materials used to clean up those spills were disposed of.

Objections:

Brix objects to this Question on the grounds that it is overbroad, vague, and ambiguous. Brix objects to the use of the term "these operations" as vague and ambiguous. Brix assumes that parts (c) - (f) of this Question ask for responsive information relating to Brix's cleaning and maintenance of its equipment and machinery. Subject to and without waiving these objections or the General Objections, Brix provides the response that follows.

Response:

The Property

In this response, except as specifically indicated, Brix uses "Property" to mean the Owned Property and the Associated Leased Aquatic Lands, collectively.

Brix's response to this Question will describe responsive activities that take place at the Property. No responsive activities take place at any other location in the Investigation Area.

Brix's business activities at the Property include tug and barge scheduling and tugboat dispatch, crew rotation, fueling, routine equipment maintenance and minor repairs are the operational activities performed on the Property. No ship construction, ship retrofitting, tank cleaning, hull repair, sandblasting or hull scraping, hull painting, re-powering, or any major maintenance requiring a vessel to be out of the water is conducted by Brix either upland or overwater at the Property or anywhere within the Investigation Area.

Kerosene (approx. 100 gallons/year) and AC 500, a phosphoric acid based liquid cleaner (approx. 20 gallons/year), are used as cleaning solvents in parts washers located in the maintenance shop on the work barge. Other consumer available non-petroleum based cleaning products, including environmentally friendly ("green") products are used to clean equipment (estimated at 10-20 gallons/year). Consumer available dish soaps, laundry detergents, and household cleaning products are used on the ships and in the office building.

CONFIDENTIAL BUSINESS INFORMATION

Machine and equipment cleaning are performed in covered or contained areas. Drips and minor spills from cleaning and maintenance operations are cleaned up using absorbent pads, cleaning cloths, or disposable towels. Used absorbent pads and oil/kerosene soaked rags are placed in drum liners. The drum liners are kept in covered areas until filled and transported off the Property for recycling or disposal. Cleaning cloths are generally recycled through a commercial laundry. Disposable towels and highly soiled cloths that cannot be laundered are placed in the trash dumpster and disposed of as a solid waste.

CONFIDENTIAL BUSINESS INFORMATION

35. Describe the methods used to clean up spills of liquid or solid materials during Respondent's operation.

Objections:

Brix objects to this Question on the grounds that it is overbroad and assumes "spills" occurred and exceeds EPA's authority pursuant to Section 104(e). Subject to and without waiving these objections, Brix provides the response that follows.

Response:

All parts cleaning or maintenance activities are performed within the covered work barge or within contained areas of the tugs or transport barges. Incidental spills associated with cleaning activities are wiped up immediately with absorbent pads or rags. Spill kits and containment booms are located on the tugboats, barges, and the dock.

Spill Containment Procedures - The barge has six watertight compartments and spillage from the deck or leaks from the waste holding tanks, were they to occur, would be contained inside the barge and not released to surface water.

Spill kits are located on the tugboats, adsorbent pads/booms are present at the barge fueling station, and spill containment booms are located at the end of each dock. According to Brix personnel, if a spill occurs, the procedures to address the spill are as follows: ensure the health and safety of employees; secure the source of the spill; contact dispatch, appropriate agencies, and cleanup firms; initiate containment (deploy booms); and clean up.

CONFIDENTIAL BUSINESS INFORMATION

36. For each type of waste (including by-products) from Respondent's operations, including but not limited to all liquids, sludges, and solids, provide the following information:

a. its physical state;
b. its nature and chemical composition;
c. its color;
d. its odor;
e. the approximate monthly and annual volumes of each type of waste (using such measurements as gallons, cubic yards, pounds, etc.); and
f. the dates (beginning & ending) during which each type of waste was produced by Respondent's operations.

Objections:

Brix objects to this Question on the grounds that it is overbroad and assumes "wastes" were created and exceeds EPA's authority pursuant to Section 104(e). Brix objects to the term "waste" as overbroad, vague and ambiguous. Subject to and without waiving these objections or the General Objections, Brix provides the response that follows.

Response:

Brix's inclusion of a material (in the general lay sense of "material") in this response does not constitute an admission that the material constitutes a "waste" or is "hazardous" under RCRA or any other applicable environmental laws and regulations.

Waste materials generated from Brix's activities include: used oil and other lubricants, kerosene, used oil/lube/fuel filters, bilge water, scrap metal, and solid waste. The generation of these wastes is ongoing. The physical and chemical characteristics of these products are listed on the MSDSs included as an attachment to Response No. 33. A description of each waste stream and estimated annual quantities (if known or able to estimate) is presented below.

Used Oil and Other Lubricants - Used 30-weight lubrication oil from the tugboat's engine sumps is temporarily kept in two 1,000-gallon tanks located in the hull of the work barge, pending removal and transport off-site for recycling. The used oil tanks also receive used kerosene from the parts washer, other used petroleum products (e.g., hydraulic oil and greases) from the work barge, and oil skimmed off of bilge water from the bilge water oil/water separator system. Approximately 8,000 gallons of used lubricating oil are generated and recycled each year. Less than 500 gallons of used hydraulic oil and recoverable greases are generated and recycled each year.

Used Kerosene - Kerosene is used as a cleaning solvent for metals parts washing. The used kerosene is drained from the parts washer into the used oil tanks, pending removal and transport off-site for recycling. Approximately 100 gallons of kerosene is used and sent for recycling annually.

CONFIDENTIAL BUSINESS INFORMATION

Used Filters - Used oil and fuel filters are temporarily kept in 55-gallon steel drums kept in the covered fueling station secondary containment area. In addition, used oil absorbent pads are temporarily kept in drum-liner bags. When filled, the drums and drum liners are periodically (typically several times per year) transported off-site for treatment and recycling.

Bilge Water - Bilge water from the tugboats is initially transferred to a 3,000-gallon tank within the hull of the work barge. The bilge water is held in this tank to allow for any oil present to separate. The oil is skimmed off and transferred to one of the two used oil tanks. The remaining bilge water is transferred into a second 3,000-gallon tank and then passed through a Sarex® filtration system before being discharged to the City of Portland sanitary sewer system.

Scrap Metal - Scrap metal is temporarily kept on the Property in a covered metal receptacle and periodically transported to a metals recycler.

Miscellaneous Solid and Other Wastes - General Property trash is placed in a covered dumpster bin for pickup and off the Property disposal as a solid waste. Cleaning rags are generally recycled through a commercial laundry. Highly soiled rags that cannot be laundered are placed in the trash dumpster and disposed of as a solid waste. Non-petroleum based products, such as AC 500, a phosphoric acid based liquid cleaner, and other consumer available environmentally friendly cleaning products, are used to clean equipment. Consumer available dish soaps, laundry detergents, and household cleaning products are also used on the Property. After use, the liquid wastewater containing residual cleaning products is handled and disposed in the sanitary sewer system.

In addition, the Property is registered as a Conditionally-Exempt Generator of hazardous waste (EPA No. ORD10301486).

CONFIDENTIAL BUSINESS INFORMATION

37. Provide a schematic diagram that indicates which part of Respondent's operations generated each type of waste, including but not limited to wastes generated by cleaning and maintenance of equipment and machinery and wastes resulting from spills of liquid materials.

Response:

The location and brief description and type of each waste generation area are shown on Figure 37-1

CONFIDENTIAL BUSINESS INFORMATION

38. Identify all individuals who currently have and those who have had responsibility for Respondent's environmental matters (e.g., responsibility for the disposal, treatment, storage, recycling, or sale of Respondent's wastes). Also provide each individual's job title, duties, dates performing those duties, supervisors for those duties, current position or the date of the individual's resignation, and the nature of the information possessed by such individuals concerning Respondent's waste management.

a. additionally, your response should include information regarding, but not be limited to the following entities:
   i. Brix Maritime Co.;
   ii. Peter J. Brix;
   iii. Brix Maritime Towing Inc.; and
   iv. Brix Rafting & Sorting Co.

Objections:

Brix objects to this Question on the grounds that it is vague, overbroad, ambiguous and requires Brix to provide information about other entities. Brix objects to the term "have had responsibility for" as vague, ambiguous, and overbroad. For the purposes of this response Brix assumes that "have had responsibility for" means being the individual designated to handle the matter. Brix further objects to this Question to the extent that it seeks information about the Property at times Brix did not own, lease or operate at the Property. Consequently, Brix objects to this Question on the grounds that it seeks hearsay and other unreliable information. Subject to and without waiving these objections or the General Objections, Brix provides the response that follows.

Response:

Brix Maritime Company
Linda Brown, Brix's Marine Buyer, is currently responsible for overseeing environmental matters at the Property; her supervisor is Mike Walker. She has been in her position since 1995. Ms. Brown's duties include all purchasing, warehousing, inventory, shipping and receiving. From 1995 – 2003, she shared these duties with her then-supervisor Rafael Caballero. Ms. Brown possesses information related to the disposal and treatment of waste generated at the Property, including information about the vendors' disposal of wastes, and the location of invoices and purchase orders detailing the disposal of wastes.

Before 1995, Mr. Caballero was responsible for environmental matters, such as contracting with outside vendors for waste treatment, disposal and recycling. Mr. Caballero was Brix's Purchasing Manager from 1991 to 2003. His duties were the same as Ms. Brown's – purchasing, warehousing, inventory, shipping and receiving. His supervisors were Dave Pollard and Ed Beall. Mr. Caballero resigned in 2003 and currently possesses no information regarding Brix's waste management activities; he left all documents with Brix.

CONFIDENTIAL BUSINESS INFORMATION

Before Mr. Caballero, Dave Pollard was responsible for environmental matters. He left Brix in 1989. His responsibilities were similar to those of Mr. Caballero and Ms. Brown.

Peter J. Brix
Brix does not have information relating to what individuals "have had responsibility for" Peter Brix's environmental matters. Mr. Brix was Brix's founder and chief executive. Brix does not have any information about the nature of any information Mr. Brix may still possess.

Brix Maritime Towing, Inc.
There no longer exists any entity named "Brix Maritime Towing Inc." Brix Maritime Towing Inc. was merged into Brix Maritime Co. in 2007.[135] According to Brix employees, Brix Maritime Towing Inc., formerly known as Lafferty Transportation, operated in Idaho.

Brix Maritime Towing, Inc. did not own the Property, or, to the best of Brix's knowledge, any other property in the Investigation Area.

Brix is unaware of any information that would indicate Brix Maritime Towing, Inc. ever owned, leased, or operated at the Property, or at any other property within the Investigation Area.

To the best of Brix's knowledge, Brix Maritime Towing, Inc.'s only "activities" at the Property were purely administrative in nature. To the best of Brix's knowledge, it has no information regarding when Brix Maritime Towing used the Property for these administrative activities (payroll and bookkeeping).

To the best of Brix's knowledge, Brix Maritime Towing, Inc. did not conduct anything other than purely administrative activities at the Property. After a diligent search, Brix did not uncover any information about Brix Maritime Towing Inc. responsive to this Question

Brix Rafting & Sorting Co.
There no longer exists any entity named "Brix Rafting and Sorting Co." Brix Rafting and Sorting Co. merged into Brix Maritime Co. in 2001.[136] Prior to that merger, Brix Rafting and Sorting operated in Troutdale, Oregon.

Brix Rafting & Sorting Co. did not own the Property, or, to the best of Brix's knowledge, any other property in the Investigation Area.

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[135] See attached Certificate of Ownership and Merger of Brix Maritime Towing and Brix Maritime Co, 00004820.
[136] See attached certificate of Ownership and Merger 00004835.

CONFIDENTIAL BUSINESS INFORMATION

To the best of Brix's knowledge, Brix Rafting & Sorting Co. did not own, lease, or operate at the Property, or at any other property within the Investigation Area.

To the best of Brix's knowledge, Brix Rafting & Sorting Co.'s only "activities" at the Property were purely administrative in nature. To the best of Brix's knowledge, Brix is unaware of any information regarding when Brix Rafting & Sorting Co. used the Property for its administrative activities (payroll and bookkeeping).

To the best of Brix's knowledge, Brix Rafting & Sorting Co. did not conduct anything other than purely administrative activities at the Property. After a diligent search, Brix did not uncover any information about Brix Rafting & Sorting Co. responsive to this Question.

CONFIDENTIAL BUSINESS INFORMATION

39. For each type of waste describe Respondent's contracts, agreements, or other arrangements for its disposal, treatment, or recycling.

Objections:

Brix objects to this Question on the grounds that it is overbroad and exceeds EPA's authority pursuant to Section 104(e). Brix objects to the term "waste" as overbroad, vague and ambiguous. Subject to and without waiving these objections or the General Objections, Brix provides the response that follows.

Response:

Brix's inclusion of a material (in the general lay sense of "material") in this response does not constitute an admission that the material constitutes a "waste" or is "hazardous" under RCRA or any other applicable environmental laws and regulations.

Brix's garbage and recycling is handled by A.G.G. Enterprises. There is no contract; payment is made on a purchase order/ invoice basis.

Brix's spent oil, lube, and fuel filters are picked up and disposed of by Thermo Fluids. There is no contract; work is done on a purchase order/invoice basis.

Brix's used oil from tugboat oil changes is bought by Oil Re-Refining of Portland (ORRCO). There is no contract; work is done on a purchase order/invoice basis.

CONFIDENTIAL BUSINESS INFORMATION

40. Provide copies of such contracts and other documents reflecting such agreements or arrangements, including, but not limited to the following:

a. state where Respondent sent each type of its waste for disposal, treatment, or recycling;
b. identify all entities and individuals who picked up waste from Respondent or who otherwise transported the waste away from Respondent's operations (these companies and individuals shall be called "Waste Carriers" for purposes of this Information Request);
c. if Respondent transported any of its wastes away from its operations, please so indicate;
d. for each type of waste specify which Waste Carrier picked it up;
e. indicate the ultimate disposal/recycling/treatment location for each type of waste;
f. provide all documents indicating the ultimate disposal/recycling/treatment location for each type of waste; and
g. state the basis for and provide any documents supporting the answer to the previous question.

Objections:

Brix objects to this Question on the grounds that it is overbroad and exceeds EPA's authority pursuant to Section 104(e). Brix further objects to the term "waste" as overbroad, vague and ambiguous. Subject to and without waiving these objections or the General Objections, Brix provides the response that follows.

Response:

Brix's inclusion of a material (in the general lay sense of "material") in this response does not constitute an admission that the material constitutes a "waste" or is "hazardous" under RCRA or any other applicable environmental laws and regulations.

The Property is a registered Conditionally Exempt Generator of hazardous waste.[137] Brix's waste and recycling is disposed of via a commercial company, A.G.G. Enterprises of Portland, Oregon. Brix does not have knowledge of how or where A.G.G. Enterprises disposes of the material that it picks up from the Property. To the best of its knowledge, Brix does not have any documents responsive to this Question.

[137] See attached letters from DEQ to Brix's parent company from 2004 to 2007 verifying CEG status 0015268-0015269 and BRIXINHOUSE 001982-001987.

CONFIDENTIAL BUSINESS INFORMATION

41. Describe all wastes disposed by Respondent into Respondent's drains including but not limited to:

a. the nature and chemical composition of each type of waste;
b. the dates on which those wastes were disposed;
c. the approximate quantity of those wastes disposed by month and year;
d. the location to which these wastes drained (e.g., septic system or storage tank at the Property, pre-treatment plant, Publicly Owned Treatment Works (POTW), etc.); and
e. whether and what pretreatment was provided.

Objections:

Brix objects to this Question on the grounds that it is ambiguous, vague, overbroad, and exceeds EPA's authority pursuant to Section 104(e). Brix objects to the term "wastes" as overbroad, vague and ambiguous. Brix further objects to the Question, which assumes that "wastes" were disposed of in the drains. Subject to and without waiving these objections or the General Objections, Brix provides the response that follows.

Response:

Brix's inclusion of a material (in the general lay sense of "material") in this response does not constitute an admission that the material constitutes a "waste" or is "hazardous" under RCRA or any other applicable environmental laws and regulations.

In this response, except as specifically indicated, Brix uses "Property" to mean the Owned Property and the Associated Leased Aquatic Lands, collectively.

No waste is disposed of in drains. Sanitary sewage, gray water, and pretreated bilge water from the Property are discharged to the City of Portland sanitary sewer system. Sanitary sewage is not pretreated prior to discharge. Because the City of Portland does not classify the Property as a Significant Industrial User, a permit is not required for discharge of sanitary waste to the City's sanitary sewer system.

CONFIDENTIAL BUSINESS INFORMATION

42. Identify any sewage authority or treatment works to which Respondent's waste was sent.

Objections:

Brix objects to this Question on the grounds that it is ambiguous, vague, overbroad, and exceeds EPA's authority pursuant to Section 104(e). Brix objects to the term "wastes" as overbroad, vague and ambiguous. Subject to and without waiving these objections or the General Objections, Brix provides the response that follows.

Response:

Brix's inclusion of a material (in the general lay sense of "material") in this response does not constitute an admission that the material constitutes a "waste" or is "hazardous" under RCRA or any other applicable environmental laws and regulations.

In this response, except as specifically indicated, Brix uses "Property" to mean the Owned Property and the Associated Leased Aquatic Lands, collectively.

Sanitary sewage, gray water, and pretreated bilge water from the Property are discharged to the City of Portland sanitary sewer system.

CONFIDENTIAL BUSINESS INFORMATION

43. Describe all settling tank, septic system, or pretreatment system sludges or other treatment wastes resulting from Respondent's operations.

Objections:

Brix objects to this Question on the grounds that it is vague, overbroad, ambiguous and exceeds EPA's authority pursuant to Section 104(e). Brix objects to the term "wastes" as overbroad, vague and ambiguous. Brix further objects to this Question on the grounds that it assumes "sludges" and "wastes" resulted from Brix's activities. Subject to and without waiving these objections or the General Objections, Brix provides the response that follows.

Response:

Brix's inclusion of a material (in the general lay sense of "material") in this response does not constitute an admission that the material constitutes a "waste" or is "hazardous" under RCRA or any other applicable environmental laws and regulations.

In this response, except as specifically indicated, Brix uses "Property" to mean the Owned Property and the Associated Leased Aquatic Lands, collectively.

Bilge water from the tugboats is initially transferred to a 3,000-gallon tank within the hull of the work barge. The bilge water is held in this tank to allow for any oil present to separate. The oil is skimmed off and transferred to one of the two used oil tanks. The remaining bilge water is transferred into a second 3,000-gallon tank and then passed through a Sarex® oil/water separator filtration system before being discharged to the City of Portland sanitary sewer system. The configuration of the bilge tanks and oil/water filtration system is shown on Figure 22-1. The oil is collected by Oil Re-Refining of Portland (ORRCO) and transported off the Property. No other waste pretreatment (and subsequent treatment waste stream generation) is performed on the Property. Septic systems are and were not present on the Property.

CONFIDENTIAL BUSINESS INFORMATION

44. If applicable, describe the facilities, processes and methods Respondent or Respondent's contractor used, and activities engaged in, either currently or in the past, related to ship building, retrofitting, maintenance or repair, including, but not limited to, dry-docking operations, tank cleaning, painting and re-powering.

Objections:

Brix objects to this Question on the grounds that it is vague, overbroad, unduly burdensome and exceeds EPA's authority pursuant to Section 104(e). Brix objects to the terms "facilities" and "repowering" as vague and ambiguous. For the purposes of this response, Brix adopts the general lay meaning of the terms "facility" and "repowering." Subject to and without waiving these objections or the General Objections, Brix provides the response that follows.

Response:

In this response, except as specifically indicated, Brix uses "Property" to mean the Owned Property and the Associated Leased Aquatic Lands, collectively.

Not applicable. Only routine tugboat maintenance and equipment servicing is performed on the Property. No dry docking facilities are or were present at the Property. No ship construction, ship retrofitting, tank cleaning, hull repair, sandblasting or hull scraping, hull painting, re-powering, or any major maintenance requiring a vessel to be out of the water is conducted by Brix either upland or overwater at the Property or anywhere within the Investigation Area.

CONFIDENTIAL BUSINESS INFORMATION

45. Describe any hazardous substances, wastes, or materials used or generated by the activities described in response to the previous question and how these hazardous substances, materials and wastes were released or disposed of.

Response:

Not applicable. Please refer to the response to Question 44.

CONFIDENTIAL BUSINESS INFORMATION

46. Provide copies of any records you have in your possession, custody or control relative to the activities described in response to the previous two Questions.

Response:

Not applicable. Please refer to the response to Question 44.

CONFIDENTIAL BUSINESS INFORMATION

47. Describe any process or activity conducted on a Property identified in response to Question 4 involving the acquisition, manufacture, use, storage, handling, disposal or release or threatened release of polychlorinated biphenyl(s) ("PCB(s)" or PCB(s)-containing materials or liquids.

Response:

Brix's activities in the Investigation Area do not involve PCBs in any way. However, Portland General Electric owns and maintains two liquid-filled, pad-mounted electrical transformers that are present on the Property (Figure 13-2). Both transformers are in good condition with no visible indications of leakage. The transformer located adjacent to the maintenance building is labeled "NON-PCB". The transformer located south of the office building is not labeled, and as such, may contain PCBs. To assess the potential for historical releases of PCB containing materials from the transformers, soil samples were collected adjacent to the transformers in May 2005 and analyzed for PCBs. No PCB compounds were detected in the samples. Please refer to Brix's response to Question 71 for additional discussion and supporting documentation.

Fluorescent light fixtures are present in Brix's office, maintenance building, and work barge areas. It is not known whether the capacitors in the fluorescent light ballasts contain PCBs. However, the buildings on the Property were constructed in 1979-1980, subsequent to the 1978 ban on manufacturing PCBs and PCB containing products. Additionally, the amount of PCB-containing material in a light ballast capacitor is generally less than 1-½ ounces. Thus, in the unlikely event of a capacitor leak, the potential PCB release would be minor and easily contained. No known releases of PCBs or PCB containing materials has occurred at the Property.

Other than as indicated above, Brix has not acquired, manufactured, used, stored, handled, or disposed of PCBs or PCB-containing materials on the Property.

CONFIDENTIAL BUSINESS INFORMATION

48. For each process or activity identified in response to the previous Question, describe the dates and duration of the activity or process and the quantity and type of PCB(s) or PCB(s) containing materials or liquids.

Response:

No processes or activities conducted by Brix in the Investigation Area have involved the acquisition, use, storage, handling, disposal, releases, or potential releases (other than the potential release from a leaking fluorescent light ballast capacitor) of PCBs or PCB-containing materials.

CONFIDENTIAL BUSINESS INFORMATION

49. For each process or activity identified in response to the previous two Questions, identify the location of the process or activity on the Property .

Response:

Not applicable. Please refer to Brix's responses to Questions 47 and 48.

CONFIDENTIAL BUSINESS INFORMATION

Section 5.0 Regulatory Information

50. Identify all federal, state and local authorities that regulated the owner or operator of each Property and/or that interacted with the owner or operator of each Property. Your response is to address all interactions and in particular all contacts from agencies/departments that dealt with health and safety issues and/or environmental concerns.

Objections:

Brix objects to the Question on the grounds that it is unduly burdensome, oppressive, irrelevant and exceeds EPA's authority pursuant to Section 104(e). Subject to and without waiving these objections or the General Objections, Brix provides the response that follows.

Response:

Brix has been regulated regarding its environmental and health and safety activities by the US Environmental Protection Agency (EPA), the Occupational Safety & Health Administration (OSHA), the US Coast Guard (USCG), US Department of Transportation, the Oregon Department of Environmental Quality(DEQ), the Oregon Department of State Lands (DSL), the City of Portland, and State/City of Portland Fire Marshal offices.

CONFIDENTIAL BUSINESS INFORMATION

51. Describe all occurrences associated with violations, citations, deficiencies, and/or accidents concerning each Property during the period being investigated related to health and safety issues and/or environmental concerns. Provide copies of all documents associated with each occurrence described.

    a. provide documentation regarding a "Notice of Civil Penalty Assessment" issued on December 29, 2003, # 2003-163 and identify the specific circumstances upon which the penalty was assessed.

Objections:

Brix objects to the Question on the grounds that it is unduly burdensome, oppressive, irrelevant and exceeds EPA's authority pursuant to Section 104(e). Brix objects to the term "occurrence" as vague, ambiguous and overbroad. Subject to and without waiving these objections or the General Objections, Brix provides the response that follows.

Response:

The question seeks information regarding a Notice of Civil Penalty Assessment issued on December 29, 2003 (#2003-163) which related to activities in Coos County, Oregon, several hundred miles from the Investigation Area and is, therefore, irrelevant and unrelated to the Portland Harbor Superfund Site. Moreover, this question apparently seeks information related to health and safety violations that have no bearing on the alleged contamination within the Investigation Area.

Without waiving this objection and subject thereto, Brix answers that, to the best of its knowledge, it has identified a single report of a health and safety event with any environmental aspect. In July 2006, three Brix employees were exposed to lead paint dust. Brix's incident report of the event is attached hereto. See 10001083-10001085.

Additionally, Brix has compiled information in Table 22-1[138] about all releases for which there is some affirmative indication that (1) the spills occurred in the Investigation Area, and (2) the spills were somehow associated with (if not attributable to) the Property or Brix activities. Brix, as did its predecessors before it, has a policy of reporting all observed releases, whether or not they are attributable to the Property. As a result, not all of items in Table 22-1 are attributable to Brix activities (indeed, Brix tugboat operators were and are encouraged to report sheens and foams on their routes, even if the apparent releases do not involve the Property or Brix activities).

Many of the spills summarized in Table 22-1 were of small quantities of product, typically less than five gallons. Of the spills listed, several were releases that EPA

[138] See attached Table 22-1.

attributed to Brix activities even though written records do not contain any information tending to support this attribution. To the best of its knowledge, Brix does not believe that there is any affirmative indication that this subset of spills can be attributed to the Property or Brix's activities. Please refer to Brix's responses to Questions 10, 62, 64 and 67 for additional discussion.[139] Products spilled or observed included small amounts of lubricating oil and greases, diesel fuel, hydraulic oil, used oil, and oily bilge fluids. Please also refer to Brix's Responses to Questions 62, 64 and 67 for additional discussion.

Please refer to Brix's response to Question 62 for discussion regarding an accidental leak of lubricating oil discovered in January 1993.

[139] See attached Table 22-1.

CONFIDENTIAL BUSINESS INFORMATION

52. Provide a list of all local, state and federal environmental permits ever issued to the owner or operator on each Property (e.g., RCRA permits, NPDES permits, etc.). Please provide a copy of each federal and state permit, and the applications for each permit, ever issued to the owner or operator on each Property.

Objections:

Brix objects to the Question on the grounds that it is unduly burdensome, oppressive, duplicative, and exceeds EPA's authority pursuant to Section 104(e). Brix further objects to the term "ever" as overbroad and unduly burdensome. Subject to and without waiving these objections or the General Objections, Brix provides the response that follows.

Response:

The Property

In this response, except as specifically indicated, Brix uses "Property" to mean the Owned Property and the Associated Leased Aquatic Lands, collectively. Except as discussed below, Brix's business activities on the Property do not require federal or state environmental permits.

In 1994, the Property was a RCRA Small Quantity Generator as discussed in the response to Question No. 53. The RCRA ID No. is ORD103014866.

Additionally, three regulated underground storage tanks for diesel fuel and lubricating oil are located on the Property. The DEQ UST Facility No. is 7374; UST Permit Nos. are AEFG (20,000-gallon diesel), AEFH, (20,000-gallon diesel), and AEGK (6,000-gallon new oil).

The Property currently meets the conditions for No Exposure Certification. An NPDES storm water permit is not required for the Property.

Brix is registered with the US Department of Transportation.[140] Copies of documents pertaining to this registration are attached to this response.

[140] See 00016567-00016574; 00016576-0016585; 0016603.

CONFIDENTIAL BUSINESS INFORMATION

River Leases

T4 Spud Barge

To the best of its knowledge, Brix has no information indicating that it ever received any permits responsive to this question pertaining to the T4 Spud Barge.

Historical River Leases

To the best of its knowledge, Brix has no information indicating that it ever received any permits responsive to this Question pertaining to the Historical River Leases.

CONFIDENTIAL BUSINESS INFORMATION

53. Did the owner or operator ever file a Hazardous Waste Activity Notification under the RCRA? If so, provide a copy of such notification.

a. include any and all information between 1991 and the present, including, but not limited to any changes in regulated waste activity during that period that resulted in a change of generator status.

Objections:

Brix objects to the Question on the grounds that it is unduly burdensome, oppressive, duplicative, and exceeds EPA's authority pursuant to Section 104(e). Brix further objects to the term "ever" as overbroad and unduly burdensome. Subject to and without waiving these objections or the General Objections, Brix provides the response that follows.

Response:

Brix was a RCRA Small Quantity Generator in 1994. To the best of its knowledge, Brix has been a Conditionally Exempt Generator for all other years.[141] Brix filed a RCRA Site Hazardous Waste Activity Notification with the DEQ for 1994 in conjunction with the disposal off-Property of two small quantity waste streams consisting of paint-related materials that had accumulated over the previous years of operation.[142] The disposal of these two waste streams constituted "housecleaning" that occurred as part of Foss's acquisition of Brix. The waste streams generated by Brix in 1994 consisted of xylenes, toluene, methanol, aliphatic hydrocarbons, silicon alkyd resin, and MEK (RCRA Waste Codes D001, F003, and F005).[143] The total quantity of hazardous waste generated was approximately 1,200 pounds. The waste was transported to a licensed facility (RCRA Site No. WAD00812909) under Manifest No. 51919 on November 11, 1994. A copy of the DEQ Hazardous Waste Site Report for the Property is included as an attachment to this response.[144]

[141] See attached letters from DEQ confirming same for 2004-2007 BRIXINHOUSE001982-001983; BRIXINHOUSE001984-001985; BRIXINHOUSE001986-001987 and 00015268. See also 00035531 (DEQ Hazardous Waste Site Report) attached Registration Verification Report '98 00013896-00013897 also confirming status.
[142] See attached RCRA Waste Site Identification Form 00035390-00035393.
[143] See attached Generation and Management Answer Sheets 00035386-00035387 and 00035388-00035389.
[144] See attached Oregon DEQ Hazardous Waste Site Report 00035531

CONFIDENTIAL BUSINESS INFORMATION

54. Did the owner or operator's facility on each Property ever have "interim status" under the RCRA? If so, and the facility does not currently have interim status; describe the circumstances under which the facility lost interim status.

Objections:

Brix objects to the Question on the grounds that it is unduly burdensome, oppressive, duplicative and exceeds EPA's authority pursuant to Section 104(e). Brix further objects to the term "ever" as overbroad and unduly burdensome. Subject to and without waiving these objections or the General Objections, Brix provides the response that follows.

Response:

To the best of its knowledge, Brix has no information indicating that it ever had "interim status" under RCRA at any location in the Investigation Area.

CONFIDENTIAL BUSINESS INFORMATION

55. Provide all RCRA Identification Numbers issued to Respondent by EPA or a state for Respondent's operations.

Response:

The RCRA SQG Site ID No. is ORD103014866.

CONFIDENTIAL BUSINESS INFORMATION

56. Identify all federal offices to which Respondent has sent or filed hazardous substance or hazardous waste information. State the years during which such information was sent/filed.

Response:

To the best of Brix's knowledge, Brix has not sent or filed hazardous substance or hazardous waste information with any "federal offices".

CONFIDENTIAL BUSINESS INFORMATION

57. Identify all state offices to which Respondent has sent or filed hazardous substance or hazardous waste information. State the years during which such information was sent/filed.

Response:

Brix filed RCRA Waste Site Information and Generation and Management Answer forms with the DEQ in early 1995. See response to Question 53 for more information about this report.

Brix submits Hazardous Substances Information Surveys for the Property annually to the Oregon State Fire Marshal Office (under EPCRA, OHWHM, and CR2K). Appendix I of the Supplemental Preliminary Assessment Summary (Anchor and Hahn, October 2000) includes a copy of a representative survey for the Property.[145]

[145] Information Survey 00013893-00013895.

CONFIDENTIAL BUSINESS INFORMATION

58. List all federal and state environmental laws and regulations under which Respondent has reported to federal or state governments, including but not limited to: Toxic Substances Control Act, 15 U.S.C. Sections 2601 et seq. (TSCA); Emergency Planning and Community Right-to-Know Act, 42 U.S.C. Sections 1101 et seq. (EPCRA); and the Clean Water Act (the Water Pollution Prevention and Control Act), 33 U.S.C. Sections 1251 et seq., Oregon Hazardous Substance Remedial Action Law, ORS 465.315, Oregon Water Quality law, ORS Chapter 468(b), Oregon Hazardous Waste and Hazardous Materials law, ORS Chapters 465 and 466, or Oregon Solid Waste law, ORS Chapter 459. Provide copies of each report made, or if only oral reporting was required, identify the federal and state offices to which such report was made.

Response:

Federal and state environmental laws under which Brix has reported to federal and state agencies include the Emergency Planning and Community Right-to-Know Act (EPCRA), Clean Water Act (CWA), Oregon Hazardous Substance Remedial Action Law (OHSRA), Oregon Water Quality Law (OWQ), Oregon Hazardous Waste and Hazardous Materials Law (OHWHM), Oregon Community Right to Know (CR2K), and Oregon and Oregon Solid Waste Law (OSW). The following summarizes the type of activities, reports (oral or written), and offices or agencies to which the reports were made:

Observed Spills or Releases To River – Oral reports of suspected spills or releases to the Willamette River observed by Brix personnel have been made to the U. S. Coast Guard, National Response Center and/or the Oregon Emergency Response System (under EPCRA, CWA, OWQ, and OHWHM). The reported spills or releases are listed in Table 22-1. Additional reporting information is included in Appendix H of the Supplemental Preliminary Assessment Summary (Anchor and Hahn, October 2000).

Hazardous Substances – Hazardous substances information surveys for the Property are submitted annually to the Oregon State Fire Marshal Office (under EPCRA, OHWHM, and CR2K). Appendix I of the Supplemental Preliminary Assessment Summary (Anchor and Hahn, October 2000) includes a copy of a representative survey for the Property.

Underground Storage Tanks - Five single-wall steel USTs were initially installed at the Property in 1979. The DEQ UST Facility No. is 7374 (under OHWHM). In 1998, two USTs were decommissioned by removal; the three remaining USTs have since been retrofitted and upgraded. Copies of the General Permit Registration Form, UST decommissioning and upgrade/retrofit checklists, and other associated reporting documentation that was submitted to the DEQ Northwest Region office is included as Appendices E and F of the Supplemental Preliminary Assessment Summary (Anchor and Hahn, October 2000). See response to Question 13.j and 62 for additional information regarding the USTs.

Hazardous Waste Generation and Disposal - Brix was a RCRA Small Quantity Generator in 1994, and has been a Conditionally Exempt Generator for all other years of operation.

CONFIDENTIAL BUSINESS INFORMATION

A RCRA Site Hazardous Waste Activity Notification was filed with the DEQ Northwest Region office for 1994 (under EPCRA, OHWHM, and CR2K). Copies of the RCRA Waste Site Information and Generation and Management Answer forms and the DEQ Hazardous Waste Site Report for the Property are included as attachments to the response to Question 53.

Petroleum Contaminated Soil Disposal - In January 1993, Brix discovered an upland subsurface release of lubricating oil from a leak in the UST product line. Brix reported the release to the DEQ Northwest Region office (under OHSRA, OHWHM, OSW, and CR2K). Hahn and Associates, under contract to Brix, removed petroleum contaminated soil (PCS) from the vicinity of the release and transported the excavated PCS off-Property for thermal treatment and recycling. Copies of the PCS Soil Recycling Certificate, initial reports and other reporting documentation that Brix filed with the DEQ Northwest Region office are included in Appendix G of the Supplemental Preliminary Assessment Summary (Anchor and Hahn, October 2000). See Brix's response to Question 62 additional discussion of soil removal and disposal.

Site Investigation Activities – Environmental investigations at the Property were initiated at the Property as a result of the historical UST releases and are ongoing (under OHSRA, and OHWHM). All reports related to these investigations have been submitted to the DEQ Northwest Region office. Details of these investigations, report references, and copies of the submitted reports are provided in the responses to Question 71.

PCBs have never been used or stored by Brix at the Property or anywhere else in the Investigation Area; therefore, Brix has not been required to provide, and has not provided, any reports under TSCA. See Brix's responses to Questions 47, 48, and 49. The Property has met and currently meets the conditions for No Exposure Certification. There is no requirement for Brix to obtain an NPDES permit or perform associated reporting under the CWA or OWQ, and no such reporting has occurred.

CONFIDENTIAL BUSINESS INFORMATION

59. Provide a copy of any registrations, notifications, inspections or reports required by the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq., or state law, to be maintained or submitted to any government agency, including fire marshal(s), relating to PCB(s) or PCB(s) containing materials or liquids on any Property identified in response to Question 4.

Response:

Not applicable. To the best of Brix's knowledge, Brix does not and has not used any PCBs at the Property or anywhere else in the Investigation Area.

CONFIDENTIAL BUSINESS INFORMATION

60. Has Respondent or Respondent's contractors, lessees, tenants, or agents ever contacted, provided notice to, or made a report to the Oregon Department of State Lands ("DSL") or any other state agency concerning an incident, accident, spill, release, or other event involving Respondent's leased state aquatic lands? If so, describe each incident, accident, spill, release, or other event and provide copies of all communications between Respondent or its agents and DSL or the other state agency and all documents that were exchanged between Respondent, its agents and DSL or other state agency.

Response:

To the best of Brix's knowledge, Brix has no documents or anecdotal information regarding reports to DSL regarding spills. As a matter of Brix policy, Brix personnel reported all spills or releases involving aquatic lands to the U.S. Coast Guard, which relayed those reports to the National Response Center and the State of Oregon. Please refer to Table 22-1,[146] and to Brix's responses in Questions 10 and 62 for additional discussion.

[146] See attached Table 22-1.

CONFIDENTIAL BUSINESS INFORMATION

61. Describe all notice or reporting requirements to DSL that you had under an aquatic lands lease or state law or regulation regarding incidents affecting, or activities or operations occurring on Leased Aquatic Lands. Include the nature of the matter required to be reported and the office or official to whom the notice or report went to. Provide copies of all such notices or reports.

Response:

Brix is the current lessee of State of Oregon Submerged and Submersible Land Lease No. ML-9230[147]), which contains standard contractual language that requires Brix to comply with all applicable local, state and federal laws, regulations, ordinances and permits, and any orders or directives of applicable government agencies. The only special notice requirement under the lease is an obligation by Brix to notify the State of Oregon of any actual or threatened release of hazardous substances to the environment associated with operations or activities attributable to the Property. Other aquatic leases to which Brix and the State have been parties have imposed the same requirements.

With regard to reporting obligations under state law, please refer to Brix's responses in Questions 53, 58, 62, 64 and 67.

Copies of reports made under these and/or other requirements are being provided together with these responses.

[147] See attached BRIXINHOUSE001637-1652.

CONFIDENTIAL BUSINESS INFORMATION

Section 6.0 Releases and Remediation

62. Identify all leaks, spills, or releases into the environment of any waste, including petroleum, hazardous substances, pollutants, or contaminants, that have occurred at or from each Property, which includes any aquatic lands owned or leased by Respondent. In addition, identify and provide copies of any documents regarding:

a. when such releases occurred;
b. how the releases occurred (e.g., when the substances were being stored, delivered by a vendor, transported or transferred (to or from any tanks, drums, barrels, or recovery units), and treated);
c. the amount of each hazardous substances, pollutants, or contaminants so released;
d. where such releases occurred;
e. any and all activities undertaken in response to each such release or threatened release, including the notification of any agencies or governmental units about the release;
f. any and all investigations of the circumstances, nature, extent or location of each release or threatened release including, the results of any soil, water (ground and surface), or air testing undertaken;
g. all persons with information relating to these releases; and
h. list all local, state, or federal departments or agencies notified of the release, if applicable.

Objections:

Brix objects to this Question on the grounds that it is overbroad, unduly burdensome, and exceeds EPA's authority pursuant to Section 104(e). Brix objects to the Question to the extent that it assumes Brix's actions resulted in "leaks, spills or releases" of "waste." Brix further objects to the terms "wastes," "hazardous substances, "pollutants," "releases," and "contaminants" as overbroad, vague and ambiguous. Brix further objects to subpart (i) of the Question to the extent that it assumes Brix was involved with any "release" it might describe. Subject to and without waiving these objections or the General Objections, Brix provides the response that follows.

Response:

Brix's inclusion of a material (in the general lay sense of "material") in this response does not constitute an admission that the material constitutes a "waste" or is "hazardous" under RCRA or any other applicable environmental laws and regulations[148].

The Property

[148] See generally 00013702-00013710 and 00013725-00013732.

CONFIDENTIAL BUSINESS INFORMATION

Upland Releases

On or about January 13, 1993, Brix discovered an upland subsurface release of lubricating oil from a leak in the UST product line. Brix reported the release to the DEQ (LUST File No. 26-93-0009), immediately halted dispensing operations from the lubrication oil USTs, and repaired the product line. Hahn and Associates, under contract to Brix, performed an investigation that included completing and sampling 13 soil explorations in the vicinity of the UST nest. The results of the investigation identified petroleum contaminated soil in two areas. One area was along the UST pipeline adjacent to the maintenance building and was likely associated with the lubricating oil line leak. The other area was south of the UST nest where gasoline range petroleum hydrocarbons were detected in samples from one exploration. Groundwater was encountered at about 26 feet below ground surface. Groundwater samples were not collected because soil data from this and an initial investigation performed by Hahn and Associates suggested petroleum hydrocarbons had not migrated to groundwater (Subsurface Investigation Report, Hahn and Associates, August 12, 1993)[149]

Hahn and Associates removed approximately 61 tons of petroleum contaminated soil from the vicinity of the leak and transported the excavated petroleum contaminated soil to TPS Technologies, Inc. for thermal treatment and recycling. The lateral extent of the excavation is shown on Figure 13-2. The depth of the excavation was generally about three feet, but was extended to about 12 feet below ground surface in the immediate area of the release. Groundwater was not encountered in the excavation. About 60 feet of steel product line were replaced with fiberglass piping prior to backfilling the excavation with clean fill. Diesel to oil range petroleum hydrocarbons were present in soil samples from the floors and walls of the excavation at concentrations ranging from 49 to 53,000 milligrams per kilogram (mg/kg). The petroleum contaminated soil removal activities are further described in the Hahn and Associates report, dated February 26, 1993, titled *Underground Storage Tank System Investigation, Brix Maritime Company, 9030 NW St. Helens Road, Portland, Oregon* (Hahn, 1993a)[150].

In 1998, the 2,000-gallon gasoline UST and one of the 6,000-gallon lubricating oil USTs were decommissioned and removed.[151] No holes or leaks were observed in the decommissioned USTs. The three remaining USTs were retrofitted and upgraded with tank liners, cathodic protection, and spill and overfill prevention equipment to comply with DEQ's upgrade requirements. Internal inspections of the USTs were performed prior to lining and no holes or leaks were observed. petroleum contaminated soil of limited extent was observed around the diesel UST fill tubes (likely the result of historical overfills) during the upgrading activities, and the suspected release was reported to the DEQ under File No. 26-93-0009. Checklists were submitted to DEQ for

[149] See attached BRIX003110-003182.
[150] See attached 00034847-00034902. See also response to Question 71 for additional documents.
[151] Documents relating to this paragraph are 00013942-00014470.

each of the three USTs.[152] The potential for releases since the 1998 upgrades are unlikely due to the overfill containment and other protective measures currently in place. In May 2002 the DEQ determined the Property had met LUST cleanup standards and closed the LUST File for the Property.[153]

Please refer to Brix's response to Question 13-j for additional discussion. UST decommissioning and upgrade/retrofit checklists are included as Appendices E and F in the October 2000 Supplemental Preliminary Assessment Summary (Anchor and Hahn, 2000).[154] A copy of the DEQ LUST Site Report is included as an attachment.[155]

Brix conducted site investigations from 2001 to 2005 to assess the nature and extent of contamination related to the UST releases.[156] Brix initiated quarterly groundwater monitoring in 2002, which is ongoing.[157] These suggest that historical releases of petroleum products to soil and groundwater have taken place, though there are no contemporaneous records of an operational upset, disposal or other identifiable event that caused or led to a release. The nature and pattern of this contamination suggests two potential sources. The first was a release from underground pipelines emanating from a nest of USTs along the north side of the maintenance building. The second was possible overfills or spills associated with the historical use of a former gasoline dispenser near the western corner of the maintenance building. See Brix's response to Question 71 for additional information.

Releases on the River

Brix has compiled information in Table 22-1[158] about releases for which there is some affirmative indication that (1) the spills occurred in the Investigation Area, and (2) the spills were somehow associated with (if not attributable to) the Property or Brix activities. Brix, as did its predecessors before it, has a policy of reporting all observed releases, whether or not they are attributable to the Property. As a result, not all of items in Table 22-1 are attributable to Brix activities (indeed, Brix tugboat operators were and are encouraged to report sheens and foams on their routes, even if the apparent releases do not involve the Property or Brix activities).

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[152] See attached 3/31/99 response to DEQ's Site Assessment Review Notice 00015277-00015280 and 5/11/01 Work Plan for Underground Storage Tank Investigation by Hahn and Associates, Inc. BRIX 001029-1148 and DEQ's Site Assessment Program – Strategy Recommendation bates number 00015361-00015370 and the excerpt from DEQ's Environmental Cleanup Site Information (ECSI) Database 00045626-00045628.
[153] See attached 00034805-00034806.
[154] See attached BRIX000748-001028.
[155] See attached 00035332.
[156] See attached BRIX001149-BRIX001414, and 00034444, and 00035682-00035713, and BRIX001442-BRIX001461, and BRIX002789-BRIX2966, and BRIX004395-4459.
[157] See attached 00035682-00035713, and BRIX001442-BRIX001461, and BRIX001029-001148 and 00045656-00045669 and BRIX003288-003343.
[158] See attached Table 22-1.

CONFIDENTIAL BUSINESS INFORMATION

Many of the spills summarized in Table 22-1 were of small quantities of product, typically less than five gallons. Of the spills listed, several were releases that EPA attributed to Brix activities even though written records do not contain any information tending to support this attribution. To the best of its knowledge, Brix does not believe that there is any affirmative indication that this subset of spills can be attributed to the Property or Brix's activities. Please refer to Brix's responses to Questions 10, 62, 64 and 67 for additional discussion.[159] Products spilled or observed included small amounts of lubricating oil and greases, diesel fuel, hydraulic oil, used oil, and oily bilge fluids. Please also refer to Brix's Responses to Questions 62, 64 and 67 for additional discussion.

River Leases

T4 Spud Barge

To the best of its knowledge, Brix has no information indicating that any event responsive to this Question ever occurred at the T4 Spud Barge.

Historical River Leases

To the best of its knowledge, Brix has no information indicating that any event responsive to this Question ever occurred at any of the Historical River Leases.

[159] See attached Table 22-1.

CONFIDENTIAL BUSINESS INFORMATION

63. Was there ever a spill, leak, release or discharge of waste, including petroleum, or hazardous substances, pollutant or contaminant into any subsurface disposal system or floor drain inside or under a building on the Property? If the answer to the preceding question is anything but an unqualified "no", identify:

a. where the disposal system or floor drains were located;
b. when the disposal system or floor drains were installed;
c. whether the disposal system or floor drains were connected to pipes;
d. where such pipes were located and emptied;
e. when such pipes were installed;
f. how and when such pipes were replaced, or repaired; and
g. whether such pipes ever leaked or in any way released such waste or hazardous substances into the environment.

Objections:

Brix objects to this Question on the grounds that it is vague, overbroad, ambiguous, exceeds EPA's authority pursuant to Section 104(e). Brix objects to the term "building" as vague and ambiguous. For the purposes of this response, Brix assumes that "building" means an upland structure. Subject to and without waiving these objections or the General Objections, Brix provides the response that follows.

Response:

In this response, except as specifically indicated, Brix uses "Property" to mean the Owned Property and the Associated Leased Aquatic Lands, collectively.

No spills, leaks, releases or discharges of waste or any material enumerated above have been discharged to the floor drains on the Property, other than gray water. All floor drains are plumbed to discharge to the City of Portland sanitary sewer system.

This Question is inapplicable to the T4 Spud Barge or the Historical River Leases, as it is Brix's understanding that its leases of these spaces do not include any buildings.

CONFIDENTIAL BUSINESS INFORMATION

64. Has any contaminated soil ever been excavated or removed from the Property? Unless the answer to the preceding question is anything besides an unequivocal "no", identify and provide copies of any documents regarding:

a. amount of soil excavated;
b. location of excavation presented on a map or aerial photograph;
c. manner and place of disposal and/or storage of excavated soil;
d. dates of soil excavation;
e. identity of persons who excavated or removed the soil, if other than a contractor for Respondent;
f. reason for soil excavation;
g. whether the excavation or removed soil contained hazardous substances, pollutants or contaminants, including petroleum, what constituents the soil contained, and why the soil contained such constituents;
h. all analyses or tests and results of analyses of the soil that was removed from the Property;
i. all analyses or tests and results of analyses of the excavated area after the soil was removed from the Property; and
j. all persons, including contractors, with information about(a) through (i) of this request.
k. all information requested in (a) through j) above regarding but not limited to:
    i. any underground storage tank removal and/or upgrades; and
    ii. the excavation, transportation, and disposal of total petroleum hydrocarbon contaminated soli from the Property in 1993.

Objections:

Brix objects to this Question on the grounds that it is vague and ambiguous. Brix objects to the term "soil" as vague and ambiguous as that term is applied to aquatic lands. For the purposes of this response, Brix assumes that aquatic lands do not have "soil." Subject to and without waiving these objections or the General Objections, Brix provides the response that follows.

Response:

See Responses to Questions 10 and 62 supra.

This Question is inapplicable to the T4 Spud Barge and the Historical River Leases, as Brix understands that the spaces leased are aquatic spaces.

CONFIDENTIAL BUSINESS INFORMATION

65. Have you ever tested the groundwater under your Property? If so, please provide copies of all data, analysis, and reports generated from such testing.

Response:

The Property

In this response, except as specifically indicated, Brix uses "Property" to mean the Owned Property and the Associated Leased Aquatic Lands, collectively.

Groundwater monitoring has been performed at the Property since 2002. Initially two monitoring wells (MW-3 and MW-4) were installed downgradient of the USTs in July 2002. Additional wells (MW-1, MW-2, MW-5, MW-6, and MW-7) were installed in February 2003; and MW-8 was completed in 2005 (Note - MW-8 was subsequently abandoned in November 2007 because of damage incurred repairing a nearby sewer line). A quarterly groundwater monitoring program that includes analyses for gasoline to oil range petroleum hydrocarbons and related constituents was initiated in February 2003 and is ongoing. The monitoring well locations are shown on Figure 13-1. The most recent quarterly report presents historical hydrological and analytical data summary tables, and is included as an attachment (*Progress Report – Second Quarter 2008*. Hart Crowser, July 15, 2008).[160]

River Leases

T4 Spud Barge and Historical Leased Properties

To the best of its knowledge, Brix has no information indicating that it or its corporate predecessors have ever tested the groundwater under these properties.

[160] See attached BRIX004395-004459.

CONFIDENTIAL BUSINESS INFORMATION

66. Have you treated, pumped, or taken any kind of response action on groundwater under your Property? Unless the answer to the preceding question is anything besides an unequivocal "no", identify and provide copies of any documents regarding:

a. reason for groundwater action;
b. whether the groundwater contained hazardous substances, pollutants or contaminants, including petroleum, what constituents the groundwater contained, and why the groundwater contained such constituents;
c. all analyses or tests and results of analyses of the groundwater;
d. if the groundwater action has been completed, describe the basis for ending the groundwater action; and
e. all persons, including contractors, with information about (a) through (c) of this request.

Objections:

Brix objects to this Question on the grounds that it is vague, ambiguous and overbroad. Brix objects to the terms "treated," "pumped," and "response action" as overbroad, vague and ambiguous. Subject to and without waiving these objections or the General Objections, Brix provides the response that follows.

Response:

No treatment or pumping has been performed on groundwater beneath any Brix Property in the Investigation Area. See Response to Question 65.

CONFIDENTIAL BUSINESS INFORMATION

67. Was there ever a spill, leak, release or discharge of a hazardous substance, waste, or material into the Willamette River from any equipment, structure, or activity occurring on, over, or adjacent to the river? If the answer to the preceding question is anything but an unequivocal "no", identify and provide copies of any documents regarding:

a. the nature of the hazardous substance, waste, or material spilled, leaked, released or discharged;
b. the dates of each such occurrence;
c. the amount and location of such release;
d. were sheens on the river created by the release;
e. was there ever a need to remove or dredge any solid waste, bulk product, or other material from the river as a result of the release? If so, please provide information and description of when such removal/dredging occurred, why, and where the removed/dredged materials were disposed.
f. all information requested in (a) through (e) above regarding but not limited to:
    i. a 1993 release of petroleum-based material from an underground storage tank in an Oregon Department of Environmental Quality leaking underground storage tank Log #26-93-009. Information should include but not be limited to any past, present or future remediation efforts, including any sampling data collected.
    ii. a January 1995 release of bilge water released from a tug on the Willamette River. Information should include, but not be limited to clean-up or remediation activities, as well as the composition of the bilge material.
    iii. a March 1995 release of power steering fluid. Specifically identify where the release occurred, the amount released, and the trade name of the fluid involved;
    iv. multiple release between September and October 1997 resulting in a sheen along the Willamette River adjacent to the Brix Maritime Property; and
    v. a 1998 release from an underground storage tank that was in the process of being upgraded. Provide any and all documentation pertaining to the even including but not limited to any remediation efforts, excavations, or disposal of contaminated soils.

Objections:

Brix objects to this Question on the grounds that it is vague, overbroad, unduly burdensome and exceeds EPA's authority pursuant to Section 104(e). The plain language of this Question calls for the Respondent to respond with a list of all events that ever occurred to anyone anywhere on the Willamette River. Brix objects to the Question to the extent that it assumes Brix's actions resulted in "leaks, spills or releases" of "waste." Brix further objects to subpart "f" of the Question to the extent that it assumes Brix was involved with the "releases" it describes. Subject to and without waiving these objections or the General Objections, Brix provides the response that follows.

CONFIDENTIAL BUSINESS INFORMATION

Response:

Brix assumes that this Question calls for a response regarding reported releases and spills for which there is some affirmative indication that (1) the spills occurred in the Investigation Area, and (2) the spills were somehow associated with (if not attributable to) the Property or Brix activities.

Incidental spills or discharges to the Willamette River related to Brix's business activities have occurred sporadically. Brix, as did its predecessors before it, has a policy of reporting all observed releases, whether or not they are attributable to the Property. As a result, not all of the reported spills or observed sheens or foams were attributable to Brix activities (indeed, Brix tugboat operators were encouraged to report sheens and foams on their routes, even if the apparent releases did not involve the Property or Brix activities). When Brix has a spill on the river, it has generally been of a petroleum-based product that would include: lubricating oil and greases, diesel fuel, hydraulic oil (power steering fluid), used oil, and oily bilge fluids.

Brix has compiled information in Table 22-1[161] about releases for which there is some affirmative indication that (1) the spills occurred in the Investigation Area, and (2) the spills were somehow associated with (if not attributable to) the Property or Brix activities. Brix, as did its predecessors before it, has a policy of reporting all observed releases, whether or not they are attributable to the Property. As a result, not all of items in Table 22-1 are attributable to Brix activities (indeed, Brix tugboat operators were and are encouraged to report sheens and foams on their routes, even if the apparent releases do not involve the Property or Brix activities).

Many of the spills summarized in Table 22-1 were of small quantities of product, typically less than five gallons. Of the spills listed, several were releases that EPA attributed to Brix activities even though written records do not contain any information tending to support this attribution. To the best of its knowledge, Brix does not believe that there is any affirmative indication that this subset of spills can be attributed to the Property or Brix's activities. Please refer to Brix's responses to Questions 10, 62, 64 and 67 for additional discussion.[162] Products spilled or observed included small amounts of lubricating oil and greases, diesel fuel, hydraulic oil, used oil, and oily bilge fluids. Please also refer to Brix's Responses to Questions 62, 64 and 67 for additional discussion.

Further response to subpart "f"

f.i. See response to Questions 64, 65 and 71 for information on the USTs.

f.ii. Brix was unable to locate any documents that related to a January 1995 spill of bilge water, other than a reference in the Portland Harbor RI/FS Programmatic

[161] See attached Table 22-1.
[162] See attached Table 22-1.

Work Plan, Appendix E (see Table 22-1). Brix was unable to find any anecdotal information related to this alleged spill. Brix will supplement this response if any additional information becomes available.

f.iii. Brix was unable to locate any documents about a March 1995 release of power steering fluid, other than a reference in the Portland Harbor RI/FS Programmatic Work Plan, Appendix E (see Table 22-1). Brix was unable to find any anecdotal information related to this alleged spill. and as a result, is likewise unable to provide the trade name of the hydraulic fluid alleged to have been spilled. However, MSDS for several hydraulic fluids are included with the MSDS attached (see response to Question 33). Brix has used several different suppliers for hydraulic oil. Brix will supplement this response if any information becomes available.

f.iv. Brix was unable to locate any documents that related to a September 1997 sheen, other than reference in the Portland Harbor RI/FS Programmatic Work Plan, Appendix E and the National Response Center database (see Table 22-1). The source of the September 2007 sheen is unknown, but was reported because Brix routinely reports any sheens or spills that it discovers in the Willamette River, whether at or near the Property or in water wherever its tug boats are operating. Brix was unable to locate any documents that related to the October 2007 sheen, other than a reference in the National Response Center database (see Table 22-1). Brix has no other information about these sheens. Brix will supplement this response if any additional information becomes available. Please refer to Brix's response in Question 71 for additional discussion regarding groundwater seep/sheen relating to the UST releases at the base of the riverbank.

f.v. Information on the USTs is provided in responses to Questions 64, 65 and 71.

CONFIDENTIAL BUSINESS INFORMATION

68. For any releases or threatened releases of PCB(s), identify the date, quantity, location and type of PCB(s), or PCB(s) containing materials or liquids, and the nature of any response to or cleanup of the release.

Response:

No known or suspected releases of PCBs or PCB containing materials have occurred at any Property in the Investigation Area. Please refer to Brix's responses to Questions 47 and 48 for additional discussion.

CONFIDENTIAL BUSINESS INFORMATION

69. For any releases or threatened releases of PCB(s) and/or PCB(s) containing materials or liquids, identify and provide copies of any documents regarding the quantity and type of waste generated as a result of the release or threatened release, the disposition of the waste, provide any reports or records relating to the release or threatened release, the response or cleanup and any records relating to any enforcement proceeding relating to the release or threatened release.

Response:

Not applicable. Please refer to Brix's response to Question 68 for additional discussion.

CONFIDENTIAL BUSINESS INFORMATION

Section 7.0 Property Investigations

70. Provide information and documentation concerning all inspections, evaluations, safety audits, correspondence and any other documents associated with the conditions, practices, and/or procedures at the Property concerning insurance issues or insurance coverage matters.

Objections:

Brix objects to this Question on the grounds that it is vague, overbroad, unduly burdensome and exceeds EPA's authority pursuant to Section 104(e). For example, this request seeks "documentation concerning … documents associated with" various matters. For the purposes of this response, Brix construes this request as seeking all inspections, evaluations, or audits performed in connection with applications for or purchases of insurance coverage for activities at the Property, and any correspondence reflecting or referring to the same.

Response:

To the best of its knowledge, Brix has no documents responsive to this Question.

CONFIDENTIAL BUSINESS INFORMATION

71. Describe the purpose for, the date of initiation and completion, and the results of any investigations of soil, water (ground or surface), sediment, geology, and hydrology or air quality on or about each Property. Provide copies of all data, reports, and other documents that were generated by you or a consultant, or a federal or state regulatory agency related to the investigations that are described, including but not limited to the following:

a. provide all documents including, but not limited to the following:
   1. a March 2001 "Work Plan for Groundwater Investigation",
   2. a May 2001 Work Plan for an "Underground Storage Tank Investigation", prepared by Hahn and Associates Inc.
   3. a February 2005 "Remedial Investigation Work Plan," prepared by Anchor Environmental;
   4. an August 2005 "Remedial Investigation Work Plan Addendum 1," prepared by Anchor Environmental; and
   5. any quarterly progress reports prepared by Anchor Environmental.

b. produce all correspondence Brix Maritime Co. and any regulatory or government agency, including but not limited to:
   1. United State Environmental Protection Agency;
   2. Oregon Department of Environmental Quality
   3. United States Coast Guard
   4. United States Corps of Engineers.

Objections:

Brix objects to this Question as vague, overbroad, duplicative and unduly burdensome, particularly with regard to subsection "b" of the Question. Much of the information requested by this Question is already in EPA's possession. Subject to and without waiving these objections or the General Objections, Brix provides the response that follows.

Response:

The Property

Brix assumes that "investigations" means any investigation of the Property undertaken by or on behalf of Brix.

Brix conducted soil and groundwater investigations at the Property on four distinct occasions: in 1993, 2001, 2003, 2005, and 2008. Quarterly groundwater monitoring has been ongoing since 2003. The investigation activities and results are summarized below and the referenced documentation is included with Brix's response to these requests.

1993 Investigation. On or about January 13, 1993, Brix discovered an upland subsurface

release of lubricating oil from a leak in the UST product line. Brix reported the release to the DEQ (LUST File No. 26-93-0009), immediately halted dispensing operations from the lubrication oil USTs, and repaired the product line. Hahn and Associates, under contract to Brix, performed an investigation that included completing and sampling 13 soil explorations in the vicinity of the UST nest. The results of the investigation identified petroleum contaminated soil in two areas. One area was along the UST pipeline adjacent to the maintenance building and was likely associated with the lubricating oil line leak. The other area was south of the UST nest where gasoline range petroleum hydrocarbons were detected in samples from one exploration. Groundwater was encountered at about 26 feet below ground surface. Groundwater samples were not collected because soil data from this and an initial investigation performed by Hahn and Associates suggested petroleum hydrocarbons had not migrated to groundwater (*Subsurface Investigation Report*, Hahn and Associates, August 12, 1993)[163].

2001 Investigation. Sixteen push probe explorations were completed in May 2001 to further assess soil conditions in the UST and piping system areas (*Sampling Results Report In Support of the Preliminary Assessment,* Anchor Environmental and Hahn and Associates, September 2001).[164] At least one soil sample from each exploration was analyzed for petroleum hydrocarbons and/or constituents. Groundwater samples were also collected from six of the explorations to initially assess groundwater conditions beneath and downgradient of the UST and piping areas; and to further evaluate the potential for petroleum hydrocarbon constituents in soil to migrate to groundwater and ultimately the Willamette River.

Soil data delineated two areas impacted by petroleum hydrocarbons. Gasoline range petroleum hydrocarbons were present in 8 soil samples collected from 5 explorations, most of which were located within a few feet of the area where contaminated soil had been removed in 1993. Concentrations in these samples ranged from 1.14 mg/kg to 1,370 mg/kg. Only one sample (1,370 mg/kg at 5 feet bgs) was above the DEQ generic Risk Based Concentration ("RBC") for the most stringent exposure scenario (leaching to groundwater). This was for boring B-21, which was located near the location of a fuel dispenser that was formerly located near the western corner of the maintenance building. Gasoline-range petroleum hydrocarbons were not present in deeper (18 and 23 feet bgs) soil samples from this exploration. Four samples were also analyzed for gasoline-related volatile compounds ("VOCs"). Several VOCs were present in the sample from 5 feet bgs at boring B-21, i.e., the exploration that contained the highest gasoline concentration (1,370 mg/kg). Only one of these, benzene, was present in a concentration (5.2 mg/kg) that exceeded the lowest occupational RBC. The 2001 analytical results, coupled with data from the 1993 investigation, indicated that soils containing gasoline range petroleum hydrocarbons were limited to the area in the vicinity of the former gasoline dispenser and generally did not extend below 15 feet bgs.

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[163] See attached BRIX003110-003182.
[164] See attached BRIX001149-001414.

CONFIDENTIAL BUSINESS INFORMATION

Diesel- and oil-range petroleum hydrocarbons were present in seven soil samples collected from five explorations, with concentrations ranging from 62.6 mg/kg to 22,000 mg/kg. Four soil samples from two explorations completed in the immediate vicinity of the 1993 lubricating oil release contained diesel range petroleum hydrocarbons above the DEQ generic RBC for the most stringent exposure scenario (leaching to groundwater). Four samples, including those with the highest concentrations of diesel and oil range petroleum hydrocarbons, were also analyzed for polynuclear aromatic hydrocarbons ("PAHs"). PAHs were not detected in the soil samples. The 2001 analytical results, coupled with data from the 1993 investigation, indicated soils containing diesel and oil range petroleum hydrocarbons were limited to the vicinity of the lubricating oil line release.

Groundwater samples were collected from five explorations and analyzed for VOCs and PAHs. Certain VOCs were present in two samples. Benzene (125 micrograms per liter [µg/L]) was present in 1 sample collected from an exploration adjacent to the maintenance building at a concentration above the associated DEQ Ambient Water Quality Criteria ("AWQC") screening level value ("SLV"). Likewise, certain PAH compounds were detected in 2 samples at concentrations ranging from 0.19 µg/L to 0.58 µg/L, above the associated DEQ AWQC SLVs.

The 2001 investigation also included a discussion of the types of PAHs present in urban environments; and a comparison of the concentration and ratio of low-molecular-weight PAHs ("LPAHs") to high-molecular-weight PAHs (HPAHs) from a sediment sample collected near the northeast corner (downstream) of the Property to PAH compounds and molecular ratios typically associated with the petroleum hydrocarbon products kept and used at the Property. PAHs found in urban environments can be categorized as either pyrogenic or petrogenic. The origins and examples of pyrogenic and petrogenic PAHs are described below.

Pyrogenic PAHs are associated with significant heating processes or organic matter. Examples of pyrogenic PAHS are by-products of coal gasification and coal tar distillation, fuel combustion products found in urban runoff and fallout, and fires. The pyrogenic processes result in PAH mixtures enriched with higher molecular weight compounds, and typically have LPAH/HPAH ratios that range from 0.02 (pitch) to about 3 (creosote).

Petrogenic PAHs are associated with petroleum products. Petrogenic PAHs are constituents of crude oil, bunker C fuel, diesel, and gasoline products; waste oil; or incomplete combustion residues of petroleum fuels. Petrogenic PAHs are dominated by LPAH compounds, with typical LPAH/HPAH ratios that range from about 4 (bunker C) to over 800 (fresh gasoline).

Petrogenic PAHs are the primary PAH constituents associated with historical and present operations at the Property in terms of volume and uses: lubricating oil, diesel fuel, and

historically and to a lesser extent gasoline. The LPAH/HPAH ratio for the sediment sample collected immediately downstream of the Property is 0.2. This ratio is consistent with the ratios associated with pyrogenic sources, such coal tar gasification and distillation, which were historically conducted at several neighboring upstream facilities and with urban storm water runoff (a City of Portland stormwater outfall discharges to the Willamette River near the northwest corner of the Property [Figure 13-1]). They are not indicative of the petrogenic PAHs in products that are kept and used at the Property.

2002 and 2003 Monitoring Well Installations and Monitoring Program. Brix entered into a Voluntary Agreement with the DEQ in May 2002 to conduct a remedial investigation ("RI") and a source control evaluation for the Property (DEQ No. LQDVC-NWR-02-03, May 8, 2002).[165] Two monitoring wells (MW-3 and MW-4) were installed downgradient of the oil pipeline release in July 2002 as part of the initial RI activities. Additional wells (MW-1, MW-2, and MW-5, MW-6, and MW-7) were installed in February and June 2003. MW-1 was installed next to the former fuel dispenser. MW-2 was installed next to the riprap slope downgradient of the UST nest and historical oil pipeline release. MW-5 was installed along the east edge of the maintenance building. MW-6 was installed next to the southern corner of the maintenance building as an upgradient monitoring point, and MW-7 was installed in the outdoor storage area near the southern boundary of the property. A quarterly groundwater monitoring program that included analyses for gasoline to oil range petroleum hydrocarbons and related constituents was initiated in February 2003 and is ongoing (*First and Second Quarter 2003 Progress Reports*, Anchor Environmental, April 15 and July 15, 2003, respectively).[166]

All wells were initially sampled for gasoline and diesel to oil range total petroleum hydrocarbons ("TPH"), PAHs, and VOCs. Water levels were measured monthly in all existing monitoring wells from July 2002 through 2003.

Liquid phase petroleum product ("product") was observed in MW-3 only. Thickness of this product was measured monthly from July 2002 through January 2004, and quarterly thereafter. Measurable (i.e., greater than 0.01 foot) product was present in MW-3 between August and October 2002. Thickness ranged from .02 foot in August and September to .14 foot in November to a maximum of .19 foot in October. (*Progress Report Second Quarter 2008*, Table 1.)[167] No measureable product was present in MW-3 again until September 2003, when product at a thickness of 0.11 foot was observed. No product was present until July 2004, when product at a thickness of 0.02 foot was observed. Another year elapsed without any product being present in MW-3. In August 2005, product at a thickness of 0.01 foot was observed. Over two more years elapsed before product was observed in November 2007, at a thickness of 0.01 foot. No measurable product has been found in MW-3 since then. No measurable product has been found in any of the other monitoring wells.

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[165] See 00045629-00045655.
[166] See attached 00035682-00035713 and BRIX 001442-001461.
[167] See attached 00035460 at 00035434-00035522.

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TPH have not been detected in wells MW-2, MW-6, and MW-7. Gasoline TPH concentrations have been detected in 4 wells. It has been consistently present in MW-1 (near where the former gasoline dispenser was located) and MW-5 (next to the maintenance building). Gasoline-range TPH was also detected on one occasion at MW-3, in October 2003, at a concentration of 0.06 mg/L, and on four occasions at MW-4, at concentrations ranging from .31 to 1.1 mg/L. The highest concentration of gasoline-range TPH in groundwater beneath the facility was 14.0 mg/L, reported in MW-1 in May, 2006.

Gasoline constituent and additive VOCs have been present in samples from wells MW-1, MW-3, MW-4 and MW-6, but at concentrations below the associated DEQ AWQC SLVs.

Diesel to residual oil range TPH concentrations have been detected in 4 wells. Like gasoline-range TH, diesel-to-oil TPH concentrations have been consistently present in MW-1 and MW-5. They have also been detected in MW-3 and MW-4. Concentrations ranged from 0.14 mg/L in MW-4 (November 2007) to 8.5 mg/L for oil range TPH in MW-3 in July 2003, and a high of 3.4 for diesel-range organics in MW-3 in July 2002.

PAH compounds (chiefly LPAHs) have been detected in all monitoring wells. Total detectable HPAHs concentrations have ranged from 0.020 µg/L in MW-1 (May 2006). Total detectable HPAHs concentrations have ranged from 0.020 µg/L in MW-4 (August 2006) to 29.8 µg/L in MW-1 (February 2003).

LPAH/HPAH ratios derived from the PAH groundwater data vary from about 0.5 to over 130 (with a mean of about 40), thereby falling within the ranges indicative of petrogenic PAHs. These ratios, coupled with the relatively low concentrations of PAHs in groundwater, further suggest that river sediments in the area of the Property have not been significantly impacted by historical releases associated with operations on the Property.

Groundwater monitoring data from July 2002 through February 2008 for all analyzed compounds are summarized in the *Second Quarter 2008 Progress Report*, Hart Crowser, July 15, 2008.[168]

2005 Investigation and Monitoring Well MW-8 Installation. Three soil explorations and one monitoring well were completed in February 2005. The purpose of the soil explorations was to obtain additional data for source control risk screening and to develop site-specific RBCs. Two soil explorations were completed in the former gasoline piping and dispenser area and one exploration was completed between the UST nest and former lubricating oil pipe leak area. Gasoline and diesel range petroleum hydrocarbons and volatile gasoline constituents were present in one sample from the former gasoline dispenser area; and oil range petroleum hydrocarbons and volatile gasoline constituents were present in a sample from the former lubricating oil pipe leak area. All detected

[168] See attached Second Quarter 2008 Progress Report, 00035434-00035522.

compounds were below potentially applicable RBCs. Monitoring well MW-8 was installed to assess the potential presence of mobile free product in the UST tank nest and former oil pipe leak areas. Free product has not been observed in MW-8 (*First Quarter 2005 Progress Report*, Anchor Environmental, dated April 15, 2005, and *First Quarter 2008 Progress Report*, Hart Crowser, April 15, 2008.).[169]

2005 Soil Sampling Adjacent to Electrical Transformers. Two liquid-filled, pad-mounted electrical transformers, maintained by Portland General Electric, are present on the Property (Figure 13-2). In May 2005, two soil samples were collected adjacent to each pad and analyzed for diesel to oil range petroleum hydrocarbons and PCBs. One sample collected adjacent to the transformer by the maintenance building contained low concentrations of residual petroleum hydrocarbons. PCBs were not detected in any of the samples (*Second Quarter 2005 Progress Report*, Anchor Environmental).[170]

2005 Groundwater Seep and Surface Water Sampling. An intermittent groundwater seep is present on the riprap slope between well MW-2 and the river at the sand fill/native silt contact (Figure 13-1). Water samples were collected from the seep in September 2005. Surface and near-surface (0.5 feet into the slope) soil samples were collected from the seep area. A groundwater sample from monitoring well MW-2 was also collected in conjunction with the seep sampling. Finally a surface water sample was collected from the Willamette River in the immediate vicinity of the seep. PAHs were present in the soil, but again, at concentrations below potentially applicable DEQ RBCs. PAHs were also present in the MW-2 and seep water samples at concentrations below potentially applicable Joint Source Control Strategy ("JSCS") SLVs. However, several PAH compounds were present in the Willamette River water sample at concentrations above potentially applicable JSCS – SLVs.

The number of PAH compounds detected and concentrations in the water and soil samples increased toward the river. The only PAH compound detected in monitoring well MW-2 was pyrene at a trace level detection of 0.029 µg/L. Four PAH compounds (mixture of LPAHs and HPAHs) were present in the seep sample at a total concentration of 0.27 µg/L. Six PAH compounds (chiefly HPAHs) were detected in the river sample at a total concentration of 0.29 µg/L. PAHs were present in the surface soil (LPAHs totaled 266 µg/kg) and HPAHs totaled 1,559 µg/kg) at the seep at higher concentrations than the soil sample collected at a depth of 0.5 feet into the slope (LPAHs totaled 65 µg/kg) and HPAHs totaled 343 µg/kg).

The presence of a large fraction of HPAHs and higher total PAH concentrations in the river and surface soil seep samples suggest that the source of a large fraction of PAH concentrations observed in the Seep area is likely the River itself, and not petrogenic PAHs migrating with groundwater from the Property (*Third and Fourth Quarter 2005*

[169] See attached BRIX 002789-002966 and BRIX004395-004459.
[170] See attached BRIXINHOUSE000061-000262.

Progress Reports, Anchor Environmental, dated October 14, 2005, and January 13, 2006, respectively)[171].

2008 Stormwater System Sampling and Analysis Plan. A *Stormwater System Sampling and Analysis Plan*, prepared by Hart Crowser, dated December 20, 2007, was approved by the DEQ in January 2008.[172] Catch basin sediment sampling was completed in February 2008. After sediment sampling activities were completed all accumulated sediment was removed from the catch basins and each catch basin was fitted with new filter inserts. The catch basin sediment analytical data were submitted to DEQ for review and comment. In an email dated June 10, 2008, DEQ requested the stormwater outfall sampling program be modified to include PCB analysis.[173] Stormwater outfall sampling will be initiated with the first flush storm event in late summer or early fall 2008, in accordance with the procedures outlined in the approved work plan.

Sampling and analysis to date confirms the presence of gasoline-diesel-, and oil-range petroleum hydrocarbons (and constituents thereof) in soil on Brix's property and, to a lesser extent, in groundwater. In some but not all instances, these substances have been detected in concentrations in excess of screening levels or the most conservative risk-based concentrations theoretically applicable.

Two potential sources of these upland impacts have been identified. The first was a release from underground pipelines emanating from a nest of underground storage tanks along the north side of the maintenance building. The second was possible overfills or spills associated with the historical use of a former gasoline dispenser near the western corner of the maintenance building.

Investigation activities to date have identified no pathway for the migration of petroleum hydrocarbons from these sources to the Willamette River. Petroleum hydrocarbons have been detected near and in the River. But the nature and distribution of these contaminants suggests that they come from a source other than operations on Brix's property.

Additional documents related to site investigation activities enclosed with this response include the following:

Expanded Preliminary Assessment Summary Report. Anchor Environmental, February 15, 2000.[174]

Supplemental Preliminary Assessment Summary Report Anchor Environmental and Hahn and Associates, October 2000.[175]

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[171] See attached BRIXINHOUSE000263-000396 and BRIX003555-003749.
[172] See attached 00015288-00015330 and BRIXINHOUSE000826-000827.
[173] See attached BRIXINHOUSE004786.
[174] See attached BRIX000716-000747.

CONFIDENTIAL BUSINESS INFORMATION

Work Plan for Underground Storage Tank Investigation. Hahn and Associates, May 11, 2001.[176]

Remedial Investigation Work Plan. Anchor Environmental, November 26, 2003.[177]

Addendum 1, Remedial Investigation Work Plan. Anchor Environmental, August 2005.[178]

Beneficial Water Use Determination. Anchor Environmental, May 2005.[179]

Response to subparts

a.1. Neither Brix nor its consultant can locate a document with this title. Brix does, however, have a March 2002 Work Plan Addendum No. 1 for Groundwater Investigation which appears to be an addendum to the May 2001 Work Plan for Underground Storage Tank Investigation (see a.2. below). See attached Brix 000031-000055 for the Addendum No. 1.

a.2. See attached BRIX001029-001148.

a.3. See attached BRIX002056-002062; BRIX002967-002970; BRIX002649-2788 and 00034293-00034300.

a.4. See attached BRIX003288-003343, BRIX003344-003345.

a.5. Anchor prepared reports from mid 2002 through the first quarter of 2006. See attached 00034412-00034413; 00013756-00013758; 00035682-00035713; BRIX001442-001461; BRIX001465-001598; BRIX001599-001601; BRIX001791-001922; BRIX002063-002214; BRIX 002215-002364; BRIX002365-002509; BRIX 002510-002648; BRIXINHOUSE000061-000262; BRIXINHOUSE000263-000395; BRIX003555-003749; 00013175-0001336; BRIX002789-002966.

b. Correspondence with the listed agencies is included in several answers to multiple questions in the 104(e). Additionally, some documents do not appear directly responsive to a particular question, but may be generally responsive to this one in that they are to or from an agency and relating to some aspect of the Property. These documents include the following:

b.1. 00013640-00013643; 00013866-00013868; 00013877-00013878; BRIXINHOUSE002050-002051; 00013486-00013487; EPA_BRIX_DOCS1603.

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[175] See attached BRIX000748-001028.
[176] See attached BRIX001029-001148.
[177] See attached 00045656-00045669.
[178] See attached BRIX003288-003343.
[179] 00035542.

CONFIDENTIAL BUSINESS INFORMATION

b.2. 00013548-00013551; 00013700-00013701; 00013738-00013739; 00013759 and 00013760; 00015335-00015339; 00015344-00015345; 00015347-00015350; 00015355-00015357; 00015394; 00015411-00015412; 00015413-00015418; 00034201-00034202; 00034226; 00034301-00034304; 00034333-00034341; 00034351-0003453; 0003462; 00034368-00034370; 00034414; 00034415-0034421; 00034432-00034435; 00034438-00034440; 00034473; 000034476; 00034504; 00034543-00034544; 00034564; 00034568-00034569; 00034601; 00034602; 00034608-0034609; 00034616; 00034644; 00034645-00034648; 00034759-00034761; 00034814-00034815; 00034826; 00034828; BRIXINHOUSE004786; 00034846; 00035542-00035549; EPA_BRIX_DOCS001914; EPA_BRIX_DOCS002190-EPA_BRIX_DOCS02192; EPA_BRIX_DOCS002273-EPA_BRIX_DOCS002274.

b.3. Correspondence with the Coast Guard is set forth in response to Question 67.

b.4. To the best of Brix's knowledge, Brix has not corresponded with the U.S. Army Corps of Engineers related to the above-referenced investigations.

River Leases

T4 Spud Barge and Historical River Leases

To the best of its knowledge, Brix has no information indicating that it or its corporate predecessors have ever conducted any investigations responsive to this Question at any of these properties.

CONFIDENTIAL BUSINESS INFORMATION

72. Describe any remediation or response actions you or your agents or consultants have ever taken on each Property either voluntarily or as required by any state or federal agency. If not otherwise already provided under this Information Request, provide copies of all investigations, risk assessments or risk evaluations, feasibility studies, alternatives analysis, implementation plans, decision documents, monitoring plans, maintenance plans, completion reports, or other document concerning remediation or response actions taken on each Property.

Response:

The Property

In this response, except as specifically indicated, Brix uses "Property" to mean the Owned Property and the Associated Leased Aquatic Lands, collectively.

Soil remediation consisting of the removal of approximately 61 tons of petroleum contaminated soil was conducted in 1993 (further described in Brix's responses to Questions 10 and 62). Response actions to reported spills and releases are summarized in Table 22-1, and discussed in Brix's responses to Questions 10 and 62. Investigation activities to characterize the 1993 UST system release and to comply with the Voluntary Agreement with DEQ are discussed in Brix's response to Question 71. No other remediation or response actions have been conducted at the Property.

River Leases

T4 Spud Barge and Historical River Leases

To the best of its knowledge, Brix has no information indicating that it or its corporate predecessors have ever conducted any remediation or response actions on these properties.

CONFIDENTIAL BUSINESS INFORMATION

73. Are you or your consultants planning to perform any investigations of the soil, water (ground or surface), geology, hydrology, and/or air quality on or about the Property? If so, identify:

a. what the nature and scope of these investigations will be;
b. the contractors or other persons that will undertake these investigations;
c. the purpose of the investigations;
d. the dates when such investigations will take place and be completed; and
e. where on the Property such investigations will take place.

Response:

The Property

In this response, except as specifically indicated, Brix uses "Property" to mean the Owned Property and the Associated Leased Aquatic Lands, collectively.

Response to Question 71 summarizes the upland soil and groundwater investigation activities that have been conducted to date on the Property. The purpose of these investigations was to characterize the nature and extent of contaminants in the subsurface. An evaluation of the facility's stormwater system was initiated in 2008 and consists of sampling catch basin sediment and stormwater outfall discharges and analyzing the samples for site-specific and Portland Harbor COI. The purpose of the stormwater system evaluation is to obtain data that will be used to evaluate potential impacts to the Willamette River water and sediments related to stormwater discharges.

In accordance with the Voluntary Agreement, DEQ is requiring a Source Control Evaluation report, a RI report, a Risk Assessment Report, and if necessary, a Feasibility Study report. Data from previous and current (i.e., groundwater monitoring and stormwater assessment) investigations will be used to complete the source control evaluation and RI reports; no additional investigations are planned at this time. The Source Control Evaluation will include an assessment and screening of potential upland and overwater (i.e., maintenance barge and boat fueling activities) contaminant migration pathways; and will be prepared in general accordance with the framework and requirements presented in the December 2005 DEQ/EPA *Portland Harbor Joint Source Control Strategy*.[180] The evaluation will also include other non-facility sources, such as the City of Portland stormwater outfall, as potential contributors to sediment contamination adjacent to the Property.

The RI Report will provide a summary of the Property setting, historical activities on the Property, and the results of investigations performed at the Property; describe the nature, extent, and fate and transport of COI; and present a Conceptual Site Model ("CSM")

[180] See attached 00016023-00016103.

identifying potential human and ecological exposure scenarios. A human health risk screening and Level II ecological risk assessment, prepared in accordance with DEQ guidance and JSCS Screening Level Values, will be included as appendices to the RI Report. Based on Brix's current understanding of the Property, we do not anticipate a human health risk assessment or Feasibility Study will be required for the Property.

Hart Crowser, Inc., on behalf of Brix, will perform the activities described above. Groundwater monitoring is conducted quarterly. The stormwater evaluation is underway and will be completed in early 2009. Work on the Source Control Evaluation and RI reports has been initiated and is anticipated to be completed by year end 2008.

River Leases

T4 Spud Barge and Historical River Leases

To the best of its knowledge, Brix has no information that is responsive to this Question.

CONFIDENTIAL BUSINESS INFORMATION

Section 8.0 Corporate Information

74. Provide the following information, when applicable, about you and/or your business(es) that are associated with each property identified in response to Question 4:

a. state the current legal ownership structure (e.g., corporation, sole proprietorship);
b. state the names and current addresses of current and past owners of the business entity or, if a corporation, current and past officers and directors;
c. discuss all changes in the business' legal ownership structure, including any corporate successorship, since the inception of the business entity. For example, a business that starts as a sole proprietorship, but then incorporates after a few years, or a business that is subsequently acquired by and merged into a successor. Please include the dates and the names of all parties involved;
d. The names and addresses of all current or past business entities or subsidiaries in which you or your business has or had an interest that have had any operational or ownership connection with the Properties identified in response to Question 4. Briefly describe the business activities of each such identified business entities or subsidiaries; and
    i. your answer should include, but not be limited to the following any and all documentation identifying the relationship between Brix Maritime and the following:
        1. Knappton Corporation;
        2. Knappton Towboat; and
        3. Twin City Barges

e. If your business formerly owned or operated a Property identified in response to Question 4, describe any arrangements made with successor owners or operators regarding liability for environmental contamination or property damage.

Objections:

Brix objects to this Question on the grounds that it is overbroad, burdensome and exceeds EPA's authority pursuant to Section 104(e). Brix objects to the term "associated" as overbroad, vague and ambiguous. For the purposes of this Question, Brix assumes that "associated" means a relationship with some degree of operational control. Brix further objects to this Question to the extent that it seeks information regarding Brix's corporate history and structure that is irrelevant, outside EPA's authority to request and unduly burdensome for Brix to research and produce. Brix also objects to subpart (d) of this Question to the extent that it assumes relationships between Brix and Knappton Corporation, Knappton Towboat and "Twin City Barges" and to the extent it assumes that Brix has responsive knowledge or information about the activities of those entities. Subject to and without waiving these objections or the General Objections, Brix provides the response that follows.

CONFIDENTIAL BUSINESS INFORMATION

Response:

a. Respondent is a Delaware corporation authorized to do business in Oregon.

b. Respondent is a wholly-owned subsidiary of Foss Maritime Company, a Washington corporation.

c. Respondent's past Officers and Directors are as follows:

Pre-1993 acquisition (if known):

Cir. 1988 - 1992: Robert Hindman, Chief Financial Officer (1988)[181] and Secretary[182]

Cir. 1989 and 1990: Peter Brix, President[183]

Cir. 1989 and 1990: Directors: Edward S. Beall, Robert DeArmond, Arthur A. Riedel, Eli Morgan[184], Walter O. Grodahl, Louis I. Kaplan, Thomas J. Tomjack, Thomas J. Walsh[185]

Cir. 1992: Laury L. Cooper, Vice President – Controller; Timothy J. Beyer, Vice President – Columbia/Snake River Traffic Manager[186]; James Houston – Director

September 21, 1993 [187]

Directors: Peter J. Brix; Robert J. DeArmond; Walter O. Grodahl; James R. Houston; Ellison C. Morgan

Officers: Peter J. Brix, CEO
Edward S. Beall, President
Robert A. Hindman, Sr. VP-Finance, Secretary
Robert J. Hasler, Sr. VP-Marketing
Whitney E. Olson, VP-Harbor Services
David G. Bishop, VP-Contract Towing
Bruce A. Reed, VP-Ocean Towing Division

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[181] See Minutes of a Special Meeting of the Board of Directors held on November 17, 1988 00005222-00005224.
[182] See Notice of Special Meeting of Shareholders dated March 21, 1989, 00005210-00005215
[183] *Id.*
[184] See Minutes of a Meeting of the Board of Directors dated October 31, 1990, 00005131-00005134
[185] See Brix Maritime Minutes of Annual Meeting dated July 6, 1990, 00005142-00005146.
[186] See Brix Maritime Co. Minutes of the Board of Directors Meeting dated December 15, 1992, 00005106-00005109.
[187] See attached September 21, 1993 Consent of the Stockholders of Brix Maritime Co. 00005092-95.

CONFIDENTIAL BUSINESS INFORMATION

Timothy J. Beyer, VP-Columbia and Snake River Traffic & Wood Products Manager
Laury L. Cooper, VP-Controller

1994[188]

Directors: Robert B. McMillen
Thomas V. Van Dawark;
Joseph H. Langjahr

Officers: Thomas V. Van Dawark, President
Edward S. Beall, Senior VP, Columbia Snake River
Steve T. Scalzo, Senior VP
Charles F. Kauffman, Senior VP & Treasurer
Thomas F. Coburn, Senior VP, Sales
Warner D. Nelson, VP, Industrial Relations
Joseph H. Langjahr, VP & Secretary

1995[189]

Directors: Robert B. McMillen
Thomas V. Van Dawark
Joseph H. Langjahr

Officers: Thomas V. Van Dawark, President
Edward S. Beall, Senior VP, Columbia Snake River
Steve T. Scalzo, Senior VP
Charles F. Kauffman, Senior VP & Treasurer
Thomas F. Coburn, Senior VP, Sales
Warner D. Nelson, VP, Industrial Relations
Joseph H. Langjahr, VP & Secretary

1996[190]

Directors: Robert B. McMillen
Thomas V. Van Dawark
Joseph H. Langjahr

Officers: Thomas V. Van Dawark, President
Edward S. Beall, Senior VP, Columbia Snake River
Steve T. Scalzo, Senior VP

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[188] See attached 1994 Written Consent in Lieu of Annual Meeting of the Shareholders and the Board of Directors of Brix Maritime Co. 00005058-59.
[189] See attached 1995 Written Consent in Lieu of Annual Meeting of the Shareholders and the Board of Directors of Brix Maritime Co. 00005030-32.
[190] See attached 1996 Written Consent in Lieu of Annual Meeting of the Shareholders and the Board of Directors of Brix Maritime Co. 00004997-99.

CONFIDENTIAL BUSINESS INFORMATION

Charles F. Kauffman, Senior VP & Treasurer
Thomas F. Coburn, Senior VP, Sales
Warner D. Nelson, VP, Industrial Relations
Joseph H. Langjahr, VP & Secretary

1997[191]

Directors: Thomas V. Van Dawark
Joseph H. Langjahr

Officers: Thomas V. Van Dawark, President
Edward S. Beall, Senior VP, Columbia Snake River
Steve T. Scalzo, Senior VP
Charles F. Kauffman, Senior VP & Treasurer
Thomas F. Coburn, Senior VP, Sales
Warner D. Nelson, VP, Industrial Relations
Joseph H. Langjahr, VP & Secretary

1998[192]

Directors: Thomas V. Van Dawark;
Joseph H. Langjahr

Officers: Thomas V. Van Dawark, President
Steve T. Scalzo, Senior VP
Charles F. Kauffman, Senior VP & Treasurer
Thomas F. Coburn, Senior VP, Sales
Warner D. Nelson, VP, Industrial Relations
Joseph H. Langjahr, VP & Secretary

1999[193]

Directors: Thomas V. Van Dawark;
Joseph H. Langjahr

Officers: Thomas V. Van Dawark, President
Steve T. Scalzo, Executive VP
Douglas D. Johnson, VP & Treasurer
Thomas F. Coburn, Senior VP, Sales
Warner D. Nelson, VP, Industrial Relations
Joseph H. Langjahr, VP & Secretary

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[191] See attached 1997 Written Consent in Lieu of Annual Meeting of the Shareholders and the Board of Directors of Brix Maritime Co. 00004995-96.
[192] See attached 1998 Written Consent in Lieu of Annual Meeting of the Shareholders and the Board of Directors of Brix Maritime Co. 00004988-89.
[193] See attached 1999 Written Consent in Lieu of Annual Meeting of the Shareholders and the Board of Directors of Brix Maritime Co. 00004982-83.

CONFIDENTIAL BUSINESS INFORMATION

2000[194]

Directors: Thomas V. Van Dawark;
Steve T. Scalzo

Officers: Steve T. Scalzo, President
Douglas D. Johnson, VP & Treasurer
Thomas F. Coburn, Senior VP
Warner D. Nelson, VP
Joseph H. Langjahr, VP & Secretary

2001[195]

Directors: Thomas V. Van Dawark;
Steve T. Scalzo

Officers: Steve T. Scalzo, President
Douglas D. Johnson, VP & Treasurer
Thomas F. Coburn, Senior VP
Joseph H. Langjahr, VP & Secretary

2002[196]

Directors: Steve T. Scalzo

Officers: Steve T. Scalzo, President
Douglas D. Johnson, VP & Treasurer
Thomas F. Coburn, Senior VP
Joseph H. Langjahr, VP & Secretary

2003[197]

Directors: Steve T. Scalzo

Officers: Steve T. Scalzo, President
Douglas D. Johnson, VP & Treasurer
Thomas F. Coburn, Senior VP
Joseph H. Langjahr, VP & Secretary
Steven E. Giese, Assistant Secretary

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[194] See attached 2000 Written Consent in Lieu of Annual Meeting of the Shareholders and the Board of Directors of Brix Maritime Co. 00005796-97.
[195] See attached 2001 Written Consent in Lieu of Annual Meeting of the Shareholders and the Board of Directors of Brix Maritime Co. 00005783-84.
[196] See attached 2002 Written Consent in Lieu of Annual Meeting of the Shareholders and the Board of Directors of Brix Maritime Co. 00005646-47.
[197] See attached 2003 Written Consent in Lieu of Annual Meeting of the Shareholders and the Board of Directors of Brix Maritime Co. 00005620-21.

CONFIDENTIAL BUSINESS INFORMATION

2004[198]
Directors: Steve T. Scalzo

Officers: Steve T. Scalzo, President
Douglas D. Johnson, VP & Treasurer
Frank H. Williamson, Secretary
Steven E. Giese, Assistant Secretary

2005[199]
Directors: Paul E. Stevens

Officers: Steve T. Scalzo, President
Douglas D. Johnson, VP & Treasurer
Frank H. Williamson, Secretary
Steven E. Giese, Assistant Secretary

2006[200]
Directors: Paul E. Stevens

Officers: Gary C. Faber, President
Kevin L. Orstad, VP & Treasurer
Frank H. Williamson, Secretary
Steven E. Giese, Assistant Secretary

2007[201]
Directors: Paul E. Stevens

Officers: Gary C. Faber, President
Kevin L. Orstad, VP & Treasurer
Frank H. Williamson, Secretary
Steven E. Giese, Assistant Secretary

2008[202]
Directors: Paul E. Stevens

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[198] See attached 2004 Written Consent in Lieu of Annual Meeting of the Shareholders and the Board of Directors of Brix Maritime Co. 00005610-11.
[199] See attached 2005 Written Consent in Lieu of Annual Meeting of the Shareholders and the Board of Directors of Brix Maritime Co. 00005571-73.
[200] See attached 2006 Written Consent in Lieu of Annual Meeting of the Shareholders and the Board of Directors of Brix Maritime Co. 00005562-64.
[201] See attached 2007 Unanimous Consent in Lieu of the Meeting of Shareholders and Board of Directors BRIXINHOUSE004796-004798.
[202] Id.

CONFIDENTIAL BUSINESS INFORMATION

Officers: Gary C. Faber, President
Kevin L. Orstad, Treasurer
Frank H. Williamson, Secretary
Steven E. Giese, Assistant Secretary

c. Anecdotal accounts from current Brix employees with historical knowledge of Brix's activities indicate that the Brix family began building its business in the early twentieth century, in Knappton, Washington, on the Washington side of the Columbia River. The Brix family's first significant business endeavor was a sawmill operation based in Knappton, Washington. The Brix family acquired equipment to support the sawmill, including several towboats. The sawmill's operations were deeply impacted by the Great Depression, but did not halt entirely until the mid-1930s, when the mill burned down. Without the resources or the will to rebuild the mill operation, the Brix family turned to its towboats. Knappton Towboat Company had been incorporated in Washington in or about 1920.

Given its location on the Columbia, and the amount of river traffic from the Willamette, it was only a matter of time before the Brix family expanded its operations on to the Willamette River.

In or about the early 1960s, Knappton Towboat Company purchased a property at 110 S.E. Caruthers St., Portland, OR 97214, outside the Investigation Area. In the late 1970s, Knappton Towboat Company began to develop the Property before relocating there.[203] (At this time, Knappton Towboat Company did not yet own the Property. In fact, Brix did not acquire the Property until 1993. Prior to that time, neither Brix nor any of its corporate predecessors had ever owned the Property.)

At around the same time it began to develop the Property, Knappton Towboat changed its name to Knappton Corporation ("Knappton").[204]

In the early 1980s, Knappton was merged into a new Delaware corporation, also called Knappton Corporation ("Knappton DE"), which was a wholly-owned

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[203] See "Report of Hearings Officer Decision" dated October 18, 1978. The Report reflects that Knappton Towboat Company (which changed its name to Knappton Corporation in 1978), as contract purchaser, made a request for "conditional use to construct office building, parking lot, underground tank storage, warehouse and open storage within the Willamette River Greenway." PLTF 000072 See also two August 8, 1979 UST Permits issued by the City of Portland to "Knappton Tug Boat Co" [sic], BDS Permit Nos. 0472 and 0473 00015259-00015261, and the City of Portland's 11/21/79 Certificate of Occupancy for the building, 00015254 (best quality copy available).

[204] See attached Amended Certificate of Authority from the State of Oregon dated 12/26/78 00015252 and the Application for Amended Certificate of Authority dated 12/9/78 00015253.

subsidiary of Twin City Barge, Inc., a Delaware corporation.[205] After the merger, Peter Brix continued to run Knappton DE. Twin City Barge filed a Chapter 11 plan of reorganization in or about September 1987 and proposed to reorganize around Knappton DE, its sole financially viable subsidiary.[206] The reorganization plan was approved in November 1987.[207] Twin City Barge then obtained permission to do business in Oregon and changed its name to Brix Maritime Co.[208] It remained a Delaware corporation. In early 1989, Knappton DE merged into Brix Maritime.[209]

In 1993, Brix was acquired by Foss Maritime Company ("Foss"), a Washington corporation.[210] After the acquisition, Brix registered "Foss Maritime Company" as an assumed business name.[211] Under this registration Brix conducts business in Oregon using the Foss Maritime name. Brix prominently displays the Foss name on its vessels, its buildings, and its stationery pursuant to this registration.

d. Assuming that the Question is asking Respondent to identify subsidiaries or joint venture entities that conducted operations at the Property, Brix states that there are no entities responsive to this subpart.

i.

1. & 2. <u>Knappton Corporation & Knappton Towboat Company</u>

As explained in Brix's response to part (c) of this Question, Knappton Towboat and Knappton Corporation have effectively become Brix Maritime Co. Accordingly, their address, to the extent one may be attributed to them, is 9030 NW St. Helens Road, Portland, OR 97231.

Also as explained above in Brix's responses to Section 2 of EPA's requests, Brix (as were its corporate predecessors) is in the business of transporting products, providing river barging and ocean towing services.

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[205] See attached SWW003088. SWW000424. See attached Restated Certificate of Incorporation 00004827-00004833.
[206] See attached SWW001789 (Order Confirming Plan).
[207] See attached SWW001789 (Order Confirming Plan).
[208] See attached Oregon Sec'y of State's Corporation webpage 00015221-00015223.
[209] See attached Agreement and Plan of Merger 00004858-00004864. See also attached 4/04/89 Certificate of Merger of Knappton Corporation into Brix Maritime Co. 00005295-00005296 and 12/7/88 Agreement & Plan of Merger between Knappton Corporation, a Delaware corporation, and Brix Maritime Co., a Delaware corporation 00004858-00004864. *See also* attached Certificate of Merger 04/04/89 00005295-00005296.
[210] See attached 8/11/93 Stock and Asset Purchase Agreement 00036061-00036245.
[211] See attached 1994 Assumed Business Name Registration 00005377.

CONFIDENTIAL BUSINESS INFORMATION

Brix and its corporate predecessors have never manufactured or processed raw materials.

3. Twin City Barges

Brix assumes this question refers to Twin City Barge, Inc. Brix believes that Twin City Barge, Inc.'s relationship to the Property was solely by virtue of its ownership of Knappton Corporation, which it acquired in or about September 1982.[212] According to a July 1, 1982 press release:

> Twin City Barge is a diversified company engaged in river transportation, barge construction and terminal operations. Its barging operations extend from the Twin Cities throughout the inland river system of the United States. In addition t barges, TCB also manufactures dredges and other types of marine equipment, and operates a major river terminal with a complete intermodal exchange between rail, truck and barge.[213]

In August 1988, Twin City Barge filed a restated Certificate of Incorporation in which, among other things, Twin City Barge changed its name to Brix Maritime Co.[214] As Twin City Barge has effectively become Brix Maritime Co., its address, to the extent one may be attributed to it, is 9030 NW St. Helens Road, Portland, OR 97231. [0004849]

e. Not applicable. Brix is the current Property owner.

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[212] See attached Agreement and Plan of Merger between Knappton Corporation of Delaware and Knappton Corporation of Washington 9/29/82 00015658-00015671.
[213] See attached SWW003110.
[214] See attached SWW001672. See also attached Restated Certificate of Incorporation 00004827-00004833.

CONFIDENTIAL BUSINESS INFORMATION

75. List all names under which your company or business has ever operated and has ever been incorporated. For each name, provide the following information:

a. whether the company or business continues to exist, indicating the date and means by which it ceased operations (e.g., dissolution, bankruptcy, sale) if it is no longer in business;

b. names, addresses, and telephone numbers of all registered agents, officers, and operations management personnel; and

c. names, addresses, and telephone numbers of all subsidiaries, unincorporated divisions or operating units, affiliates, and parent corporation if any, of the Respondent.

i. your answer should include, but not be limited to any and all documentation regarding the following entities:

1. Foss Maritime Corporation;
2. Marine Resources Group, Inc.; and
3. Saltchuk Resources, Inc.

Objections:

Brix objects to this Question on the grounds that it is vague, overbroad, unduly burdensome and exceeds EPA's authority pursuant to Section 104(e). Brix objects to this Question to the extent that it seeks information regarding Brix's corporate history and structure that is irrelevant, outside EPA's authority to request and unduly burdensome for Brix to research and produce. Brix objects to subpart (c) of this Question to the extent that it assumes relationships between Brix and Foss Maritime Corporation, Marine Resources Group, Inc, and Saltchuk Resources, Inc. and to the extent it assumes that Brix has responsive knowledge or information about the activities of those entities. Brix further objects to the terms "affiliates" and "names under which [Brix] has operated" as vague and ambiguous. Without waiving these objections, and subject thereto, Brix assumes that "affiliate" means a corporation or other legal entity that is related to Brix by shareholding or some means of operational control. Brix further assumes that the term "names under which [Brix] has operated" means the names of Brix's corporate predecessors. Subject to and without waiving these objections or the General Objections, Brix provides the response that follows.

Response:

Brix Maritime Co.

a. Brix Maritime Co. currently exists.

b. **Respondent**

CONFIDENTIAL BUSINESS INFORMATION

Current Registered Agent:	CT Corporation[215] 388 State St. Suite 420 Salem, Oregon, 97301 503-566-6883
Current Officers and Directors[216]	Director, Paul E. Stevens; President, Gary C. Faber; Secretary, Frank H. Williamson; Treasurer, Kevin L. Orstad; Assistant Secretary, Steven E. Giese.

c. Respondent has no subsidiaries, affiliates, or unincorporated divisions or operating units.

With respect to the inquiry regarding Brix's parent companies, Brix objects that it is not in possession or control of its parent companies' information. To the extent that some of the information is easily gleaned from public sources (addresses), Brix provides such information in its response for EPA's convenience.

Parent companies are:

Foss Maritime Company	Foss Maritime Company is the parent company of Respondent. 660 West Ewing Street, Seattle, WA 98119 206-281-4739
Current Registered Agent:	CT Corporation System, 1801 West Bay Dr. NW, Suite 206, Olympia WA 98502
Marine Resources Group, Inc.	Marine Resources Group, Inc. is the parent company of Foss Maritime Company, 1177 Fairview Ave. N. Seattle, WA 98109 206-270-7433
Current Registered Agent	BS & G Inc, 1191 2nd Ave, #1800, Seattle, WA 98101-2939

[215] From Oregon Secy of State's Corporations webpage 00015221-00015223.
[216] See attached 004796-004798.

CONFIDENTIAL BUSINESS INFORMATION

Saltchuk Resources, Inc.	Saltchuk Resources, Inc. is the parent company of Marine Resources Group, Inc. 1111 Fairview Ave. N. Seattle, WA 98109 206-652-1111
Current Registered Agent	BS & G Inc, 1191 2nd Ave, #1800, Seattle, WA 98101-2939

Other names under which Brix has operated

Brix objects that this request is vague and ambiguous — it is not known what is meant by "names under which [Brix] has operated." Assuming that this request asks for information about the names of Brix's corporate predecessors, Brix states as follows ("names" arguably responsive to the request are in bold type):

Knappton Towboat Co**.** began developing the Property in the late 1970s before relocating there.

At around the same time it began to develop the Property, Knappton Towboat changed its name to Knappton Corporation ("Knappton").[217]

In the early 1980s, Knappton was merged into a new Delaware corporation, also called Knappton Corporation ("Knappton DE"), which was a wholly-owned subsidiary of Twin City Barge, Inc., a Delaware corporation.[218] Twin City Barge filed a Chapter 11 plan of reorganization in or about September 1987 and proposed to reorganize around Knappton DE, its sole financially viable subsidiary.[219] The reorganization plan was approved in November 1987.[220] Twin City Barge then obtained permission to do business in Oregon and changed its name to Brix Maritime Co.[221] It remained a Delaware corporation. In early 1989, Knappton DE merged into Brix Maritime.[222]

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[217] See attached Amended Certificate of Authority from the State of Oregon dated 12/26/78 00015252 and the Application for Amended Certificate of Authority dated 12/9/78 00015253.
[218] See attached SWW003088. SWW000424. See attached Restated Certificate of Incorporation 00004827-00004833.
[219] See attached SWW001789 (Order Confirming Plan).
[220] See attached SWW001789 (Order Confirming Plan).
[221] See attached Oregon Sec'y of State's Corporation webpage 00015221-00015223.
[222] See attached Agreement and Plan of Merger 00004858-00004864. See also attached 4/04/89 Certificate of Merger of Knappton Corporation into Brix Maritime Co. 00005295-00005296 and 12/7/88 Agreement & Plan of Merger between Knappton Corporation, a Delaware corporation, and Brix Maritime

CONFIDENTIAL BUSINESS INFORMATION

In 1993, Brix was acquired by Foss Maritime Company ("Foss"), a Washington corporation.[223] After the acquisition, Brix registered "Foss Maritime Company" as an assumed business name.[224] Under this registration Brix conducts business in Oregon using the Foss Maritime name.

Brix prominently displays the Foss name on its vessels, its buildings, and its stationery pursuant to this registration. However, Brix and its corporate parent, the Washington-incorporated Foss, maintain separate corporate existences.

b. Assuming that this part, as applied to Brix's corporate predecessors, asks for information regarding current registered agents, officers, and operations management personnel of those corporate predecessors, Brix answers that as Knappton Towboat and Knappton Corporation have effectively become Brix Maritime Co., the information requested in this subpart as to them, to the extent that it is appropriate to answer this subpart, is the same as for Brix, *supra*.

c. This part is inapplicable to Brix's corporate predecessors as it expressly pertains only to "Respondent."

Co., a Delaware corporation 00004858-00004864. *See also* attached Certificate of Merger 04/04/89 00005295-00005296.

[223] See attached 8/11/93 Stock and Asset Purchase Agreement 00036061-36245.

[224] See attached 1994 Assumed Business Name Registration 00005377.

CONFIDENTIAL BUSINESS INFORMATION

76. Provide all copies of the Respondent's authority to do business in Oregon. Include all authorizations, withdrawals, suspensions and reinstatements.

Objections:

Brix objects to this Question on the grounds that it is vague, ambiguous and exceeds EPA's authority pursuant to Section 104(e). Brix objects to the term "do business in Oregon" as vague and ambiguous. Brix assumes that this Question calls for Oregon State-issued authorization to do business. Brix further objects that this Request strays far afield of EPA's authority under CERCLA. Subject to and without waiving these objections or the General Objections, Brix provides the response that follows.

Response:

Without waiving these objections or the General Objections, Brix answers that its authority to do business in Oregon has never been withdrawn, suspended or reinstated.

Attached are copies of the following documents that Respondent uncovered:

- Twin City Barge, Inc.'s Amendment to Application for Authority to Transact Business in Oregon changing the name of the company to Brix Maritime Co. (00005388);
- 2003 Certificate from the Oregon Secretary of State's website certifying that the Foreign Business Corporation Application for Authority to Transact Business in Oregon is a true copy (00005385);
- June 1988 Foreign Business Corporation Application for Authority to Transact Business in Oregon for Twin City Barge, Inc. (00005386).

Together, these documents confirm that in 1988 Twin City Barge, Inc. was authorized to do business in Oregon and that Twin City Barge, Inc. filed paperwork to amend its name to Brix Maritime Co.

See also the Oregon Secretary of State's website 00015221-00015223.

CONFIDENTIAL BUSINESS INFORMATION

77. If Respondent is, or was at any time, a subsidiary of, otherwise owned or controlled by, or otherwise affiliated with another corporation or entity, then describe the full nature of each such corporate relationship, including but not limited to:

a. a general statement of the nature of relationship, indicating whether or not the affiliated entity had, or exercised, any degree of control over the daily operations or decision-making of the Respondent's business operations at the Site;

b. the dates such relationship existed;

c. the percentage of ownership of Respondent that is held by such other entity(ies);

d. for each such affiliated entity provide the names and complete addresses of its partner, subsidiary, and otherwise affiliated entities, as well as the names and addresses of each such affiliated entity's officers, directors, partners, trustees, beneficiaries, and /or shareholders owning more than five percent of that affiliated entity's stock;

e. provide any and all insurance policies for each such affiliated entity(ies) which may possibly cover the liabilities of the Respondent at each Property; and

f. provide any and all corporate financial information of such affiliated entities, including but not limited to total revenue or total sales, net income, depreciation, total assets and total current assets, total liabilities and total current liabilities, net working capital (or net current assets), and net worth.

Objections:

Brix objects to this Question on the grounds that it is overbroad, unduly burdensome and exceeds EPA's authority pursuant to Section 104(e). Brix objects to this Question to the extent that it seeks information regarding Brix's corporate history and structure that is irrelevant, far outside EPA's authority to request and unduly burdensome for Brix to research and produce. Brix objects to the use of the term "controlled" as overbroad, vague and ambiguous. Brix further objects to the term "at any time" as it exceeds the scope of EPA's authority and is unreasonable. Brix objects to the terms "affiliation" and "affiliated entity" as overbroad, vague and ambiguous. For the purposes of this response, Brix assumes that: "controlled" means any exercise of power or influence over operations as defined in *U.S. v. Bestfoods* (*see* 524 U.S. at 66-67); and "affiliation" means a relationship wherein the subject entity has or previously had a degree of operational control over or with respect to Brix's operations within the Investigation Area. Subject to and without waiving these objections or the General Objections, Brix provides the response that follows

Response:

CONFIDENTIAL BUSINESS INFORMATION

Twin City Barge, Inc.

a. As has already been explained *supra*, Knappton Corporation (Brix's corporate predecessor) was, for a brief time in the 1980s, a wholly-owned subsidiary of Twin City Barge, Inc. To the best of its knowledge, Brix has no information indicating that during this time, Twin City Barge, Inc. exercised control over Brix's daily operations or business operations at the Property.[225]

b. The information in Brix's possession, and which is being provided to EPA, indicates that this relationship commenced in or about September 1983[226] and continued until no later than December 1988, when Knappton Corporation merged into Brix Maritime Co.[227]

c. Knappton Corporation was 100% owned by Twin City Barge, Inc.

d. As applied to Twin City Barge, Brix objects to this subpart as overly burdensome in light of the fact that Twin City Barge no longer exists as an entity separate from Brix[228] and because for a large part of the period during which Twin City Barge was "affiliated" with Brix (and/or its corporate predecessors), Twin City Barge was Brix's corporate parent. Neither Brix nor its corporate predecessors systematically maintained records or information belonging to its corporate parents. Without waiving this objection or the General Objections, Brix states as follows, based on the few documents Brix was able to locate in its archives:

On July 1, 1982, John W. Lambert was the Chairman and CEO.[229]

e. Brix objects to this Question to the extent that it seeks confidential financial information that is irrelevant and beyond EPA's authority to request under Section 104(e). Brix's parent, Foss, is a privately held company. As such, its financial information is confidential. As applied to Twin City Barge, Brix further objects to this subpart as overly burdensome in light of the fact that Twin City

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[225] SWW003110.
[226] See SWW000424 (Agreement and Plan of Merger TCB/Knappton)
[227] See attached Agreement and Plan of Merger 00004858-00004864. See also attached 4/04/89 Certificate of Merger of Knappton Corporation into Brix Maritime Co. 00005295-00005296 and 12/7/88 Agreement & Plan of Merger between Knappton Corporation, a Delaware corporation, and Brix Maritime Co., a Delaware corporation 00004858-00004864.
[228] In August 1988, Twin City Barge filed a restated Certificate of Incorporation in which, among other things Twin City Barge changed its name to Brix Maritime Co. SWW001672. See also attached Restated Certificate of Incorporation 00004827-00004833.
[229] SWW003110.

Barge no longer exists as an entity separate from Brix[230] and because for a large part of the period during which Twin City Barge was associated (in the lay meaning of the term) with Brix (and/or its corporate predecessors), Twin City Barge was Brix's corporate parent. Neither Brix nor its corporate predecessors systematically maintained records or information belonging to its corporate parents. Without waiving this objection or the General Objections, Brix will provide the following documents it uncovered: FPD 000867-000914, FPD 000229-000265, FPD 002663-002689. FPD002642-002662.

f. As applied to Twin City Barge, Brix objects to this Question to the extent that it seeks confidential financial information that is irrelevant and beyond EPA's authority to request under 104(e). Brix further objects to this subpart as burdensome in light of the fact that Twin City Barge no longer exists as an entity separate from Brix[231] and because for a large part of the period during which Twin City Barge was "affiliated" with Brix (and/or its corporate predecessors), Twin City Barge was Brix's corporate parent. Neither Brix nor its corporate predecessors systematically maintained records or information belonging to its corporate parents. Without waiving this objection or the General Objections, Brix answers that to the best of its knowledge it has it has uncovered no responsive information.

Foss Maritime Company

a. Brix has been a wholly-owned subsidiary of Foss, a Washington corporation, since September 1993.

Foss's relationship to Brix is that of a corporate parent to its subsidiary. Foss does not exercise and has never exercised any degree of control over the daily operations or decision-making of Brix's business activities at the Property.

b. September 1993[232] - present.

c. Brix is 100% owned by Foss Maritime Co. [233]

d. Brix objects that it is not in possession or control of its parent's information. To the extent that some of the information is easily gleaned from public sources

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[230] In August 1988, Twin City Barge filed a restated Certificate of Incorporation in which, among other things Twin City Barge changed its name to Brix Maritime Co. SWW001672. See also attached Restated Certificate of Incorporation 00004827-00004833.
[231] In August 1988, Twin City Barge filed a restated Certificate of Incorporation in which, among other things Twin City Barge changed its name to Brix Maritime Co. SWW001672. See also attached Restated Certificate of Incorporation 00004827-00004833.
[232] SWW000378.
[233] See attached stock certificate 00006731.

(addresses), Respondent provides such information in its response for EPA's convenience.

Foss's address (and telephone number) is:

660 West Ewing Street,
Seattle, WA 98119
206-281-4739

Its current registered agent is CT Corporation System, 1801 West Bay Dr. NW, Suite 206, Olympia WA 98502.

e. Brix objects to this Question to the extent that it seeks confidential information that is irrelevant and that beyond EPA's authority to request under 104(e). Brix objects on the grounds that it is not in possession, custody or control of its parent's information. Brix sued five insurance carriers for coverage relating to the DEQ and EPA's enforcement actions (DEQ's March 3, 1999 notice and EPA's December 8, 2000 notice). The lawsuit was dismissed in December 2005 after the carriers agreed to fund Brix's defense.[234] The insurance policies at issue are attached. Brix is currently evaluating possible additional coverage.

f. Brix objects to this Question to the extent that it seeks confidential financial information that is irrelevant and that beyond EPA's authority to request under 104(e). Brix's parent, Foss, is a privately held company. As such, its financial information is confidential information. Brix objects on the grounds that that it is not in possession, custody or control of its parent's information.

[234] See attached policies: Providence Washington number CL 282716, The Harford number 52 C345204, Argonaut numbers CL 80-386-810969 and CL80-398-810969, St. Paul number 587 ZA 2406 and National Union number GLA 918 54 17 as FPD000017-000063; FPD000066-000110; FPD000631-000658; FPD000666-000733; FPD000772-000864, FPD002608-002626, and FPD000114-000142. *See also* FPD000199-000226, FRD000229-000265, FPD000268, FPD000301-000305, FPD 000542-000569, FPD000572-00598, FPD000867-000914, FPD000951-00981, FPD001122-001141, FPD001163-001185, FPD001188-001207, FPD001276-001330, FPD001418-001462, FPD001681-001730, FPD001773-001797, FPD001873-001903, FPD002022-002048, FPD002050-002068, FPD002081-002095, FPD002113-002141, FPD002142-002158, FPD002318-002354, FPD002535-003606, FPD002642-002662, FPD002663-002689, FPD003719-003834

CONFIDENTIAL BUSINESS INFORMATION

78. If Respondent is a partnership, please describe the partnership and provide a history of the partnership's existence. Provide a list of all current and past partners of any status (e.g., general, limited, etc.) and provide copies of all documents that created, govern, and otherwise rules the partnership, including any amendments or modifications to any of the originals of such documents, and at least five years of partnership meeting minutes.

Response:

Brix's history is explained *supra*. Brix is not and never has been a partnership.

CONFIDENTIAL BUSINESS INFORMATION

Section 9.0 Compliance With This Request

79. Describe all sources reviewed or consulted in responding to this request, including, but not limited to:

a. the name and current job title of all individuals consulted;
b. the location where all sources reviewed are currently reside; and
c. the date consulted.

Response:

a. Frank Williamson, Secretary of Brix Maritime Co.; Rick Ernst, Principal of Hart Crowser; Leon Lahiere, Sr. Associate of Hart Crowser; Rafael Caballero, former Purchasing Manager; Dianne Farrier, Payroll; Donna Ilg, CSR Administrative Assistant; Linda Brown, Marine Buyer; Whitney Olson, Account Manager – CSR Ship Assists; Mark Troutman, Port Engineer; Tim Beyer, Director, Regional Towing; Ed Beall (retired), former President; and Mike Walker, Regional Operations Manager of Brix.

b. Copies of all documents reviewed for these Responses reside at Garvey Schubert Barer.

c. HartCrowser was consulted beginning in early February 2007 and continued to assist through completion. Frank Williamson was consulted beginning with the receipt of the 104(e) Request and continued to assist through completion. Brix personnel were consulted at various times from February 2007 on. Most were consulted multiple times.

CONFIDENTIAL BUSINESS INFORMATION

80. If not already provided, identify and provide a last known address or phone number for all persons, including Respondent's current and former employees or agents, other than attorneys, who have knowledge or information about the generation, use, purchase, storage, disposal, placement, or other handling of hazardous materials at, or transportation of hazardous substances, waste, or materials to or from, each Property identified in response to Question 4.

Response:

Linda Brown, Marine Buyer
Mark Troutman, Port Engineer

9030 NW St. Helens Rd
Portland, OR 97231

CONFIDENTIAL BUSINESS INFORMATION

81. If any of the documents solicited in this information request are no longer available, please indicate the reason why they are no longer available. If the records were destroyed, provide us with the following:

a. the document retention policy between 1937 and the present;
b. the approximate date of destruction;
c. a description of the type of information that would have been contained in the documents;
d. the name, job title and most current address known by you of the person(s) who would have produced these documents; the person(s) who would have been responsible for the retention of these documents; the person(s) who would have been responsible for destroying the documents; and the person(s) who had and/or still have the originals or copies of these documents; and
e. the names and most current addresses of any person(s) who may possess documents relevant to this inquiry.

Objections:

Brix objects to this Question on the grounds that it is overbroad, unduly burdensome and exceeds EPA's authority pursuant to Section 104(e). Subject to and without waiving these objections or the General Objections, Brix provides the response that follows.

Response:

Respondent is unable to describe the contents of documents dating back to 1937 that it does not have.[235]

[235] See attached BRIXINHOUSE004876-004902.

CONFIDENTIAL BUSINESS INFORMATION

82. Provide a description of all records available to you that relate to all of the questions in this request, but which have not been included in your responses.

Objections:

Brix objects to this Question on the grounds that it is vague, ambiguous, overbroad, unduly burdensome and exceeds EPA's authority pursuant to Section 104(e). Brix objects to the Question's request for "all records" "that relate to all of the questions in this request," which could potentially mean every day-to-day business record pertaining to every aspect of Brix's business activities and operations for the past several decades. In an effort to respond completely and accurately to this Question, for the purposes of this response, Brix assumes that "all records" "that relate to all of the questions in this request" pertain to those records that are immediately responsive to the specific questions presented in this 104(e) request and as clarified by Brix in its responses. Subject to and without waiving these objections or the General Objections, Brix provides the response that follows.

Response:

Brix has conducted a diligent search of thousands of current and historic corporate documents and agency records, interviewed a number of current and former Brix employees, and undertaken significant effort to respond as accurately, thoroughly and completely as possible. Brix has provided in almost 8,000 pages of documents in response to this 104(e) request and to the best of Brix's knowledge, there are no additional records that relate to all of the questions in this request that have not been included in Brix's responses.

Brix, however, reserves the right to supplement its responses to this 104(e) request should it become aware of additional information or documentation responsive to the questions set forth herein.

CONFIDENTIAL BUSINESS INFORMATION

DECLARATION

I declare under penalty of perjury that I am authorized to respond on behalf of Respondent and that the foregoing is complete, true, and correct.

Executed on September 15, 2008.

/s/
Signature

Frank H. Williamson
Type or Print Name

Secretary, Brix Maritime Co.
Title

Mailing Address:

Brix Maritime Co.
9030 NW St. Helens Road
Portland, OR 97231-1127

Tables

Table 19-1 Catch Basin Sediment Chemical Analysis Results: Non-Volatile Compounds 9030 NW St. Helens Road, Portland, Oregon

Sample Identification	CB-A Upper	CB-A Lower	CB-B Upper	CB-B Lower	Screening Level Value	
					Toxicity	Bioaccumulation
PCBs (µg/kg)						
Aroclor 1016	8.8 U	8.9 U	8.9 U	8.8 U	530	420
Aroclor 1221	8.8 U	8.9 U	8.9 U	8.8 U		
Aroclor 1232	8.8 U	8.9 U	8.9 U	8.8 U		
Aroclor 1242	8.8 U	8.9 U	8.9 U	8.8 U		2
Aroclor 1248	15 Y	8.9 U	18 Y	30 Y	1,500	4
Aroclor 1254	24 Y	8.9 U	30 Y	88 Y	300	10
Aroclor 1260	**20**	**11**	**27**	**38**	200	
Total PCBs	**20**	**11**	**27**	**38**		
Total Organic Carbon (%)	**10.9**	**5.35**	**13.3**	**7.43**		
Total Solids (%)	**51.1**	**67.2**	**56.9**	**46.7**		

Notes:

1. Total Petroleum Hydrocarbons (TPH) by Northwest Methods.
2. Polynuclear Aromatic Hydrocarbons (PAHs) by EPA Method 8270D GC/MS.
3. Phthalates by EPA Method 8270D GC/MS.
4. Polychlorinated Biphenyls (PCBs) by EPA Method 8082 GC/ECD.
5. Total Organic Carbon by Plumb, 1981 Method.
6. Total Solids by EPA Method 160.3.
7. Screening Level Values from Table 3-1, Portland Harbor Joint Source Control Strategy (DEQ/EPA, 2005).
8. Reportable concentrations are shown in **bold type**.
9. Analytical results reported on a dry weight basis.
10. U = Analyte not present at or above the indicated laboratory reporting limit.
11. J = Indicated concentration is below the laboratory's established reporting limit and is estimated.
12. Y = Reporting limit raised due to chromatographic interference. Analyte is not present at or above the indicated concentration.

Table 19-1 Catch Basin Sediment Chemical Analysis Results: Non-Volatile Compounds
9030 NW St. Helens Road, Portland, Oregon

Sample Identification	CB-A Upper	CB-A Lower	CB-B Upper	CB-B Lower	Screening Level Value	
					Toxicity	Bioaccumulation
TPH (mg/kg)						
Gasoline Range (C_6-C_{10})	**3.9**	0.7 U	**3.5**	**27**		
Diesel Range (C_{10}-C_{28})	**120**	**110**	**190**	**220**		
Residual Oil Range (>C_{28})	**440**	**1,200**	**850**	**2,000**		
PAHs (µg/kg)						
LPAHs						
Naphthalene	66 U	330 U	330 U	420 U	561	
Acenaphthylene	66 U	330 U	330 U	420 U	200	
Acenaphthene	39 J	330 U	**400**	410 J	300	
Fluorene	54 J	330 U	170 J	**580**	536	
Phenanthrene	**550**	**1,200**	**1,600**	**4,100**	1,170	
Anthracene	**100**	220 J	240 J	**650**	845	
2-Methylnaphthalene	66 U	330 U	330 U	420 U	200	
Total LPAHs	**650**	**1,200**	**2,000**	**5,330**		
HPAHs						
Fluoranthene	**1,100**	**2,400**	**3,300**	**7,500**	2,230	
Pyrene	**710**	**1,600**	**1,800**	**4,500**	1,520	
Benzo(a)anthracene	**240**	**920**	**830**	**1,800**	1,050	
Chrysene	**480**	**1,300**	**1,300**	**3,100**	1,290	
Benzo(b)fluoranthene	**550**	**1,200**	**1,200**	**3,000**		
Benzo(k)fluoranthene	**500**	**1,800**	**1,400**	**3,200**	13,000	
Benzo(a)pyrene	**420**	**1,400**	**940**	**2,500**	1,450	
Indeno(1,2,3-cd)pyrene	**170**	**450**	260 J	**700**	100	
Dibenz(a,h)anthracene	66 U	330 U	330 U	420 U	1,300	
Benzo(g,h,i)perylene	**210**	**420**	260 J	**710**	300	
Total HPAHs	**4,380**	**11,490**	**10,770**	**27,010**		
Total PAHs	**5,030**	**12,690**	**12,770**	**32,340**		
Phthalates (µg/kg)						
Dimethyl Phthalate	66 U	330 U	250 J	420 U	600	
Diethyl Phthalate	66 U	330 U	330 U	420 U	100	
Di-n-butyl Phthalate	66 U	330 U	190 J	260 J		
Butylbenzyl Phthalate	66 U	330 U	**1,000**	330 J		
Bis(2-ethylhexyl) Phthalate	**3,000**	**5,700**	**14,000**	**20,000**	800	330
Di-n-octyl Phthalate	**320**	**380**	**1,200**	**3,500**		

Please refer to notes on the last page of this table.

Confidential Business Information

Table 19-2 Catch Basin Sediment Chemical Analysis Results: VOCs
9030 NW St. Helens Road, Portland, Oregon

Sample Identification:	CB-A1 Upper	CB-A1 Lower	CB-A2 Upper	CB-A2 Lower	CB-A3 Upper	CB-A3 Lower	CB-B1 Upper	CB-B1 Lower	CB-B2 Upper	CB-B2 Lower	Toxicity Screening Level Value
Analyte	Concentrations in Milligrams per Kilogram (mg/kg)										mg/kg
Benzene	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.12 U	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.00120 U	
Ethylbenzene	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.12 U	0.0010 U	0.0010 U	**0.0014**	0.0010 U	0.00120 U	
Toluene	0.0050 U	0.0050 U	0.0050 U	**1.4**	**5.5**	**0.0060**	**1.3**	0.005 U	0.0051 U	**3.0**	
Total Xylenes	0.0030 U	0.0030 U	0.0030 U	0.0030 U	0.36 U	0.003 U	0.003 U	**0.0043**	**0.0085**	**0.0035**	
Acetone	0.50 U	0.50 U	0.50 U	**0.087**	6.0 U	0.50 U	**0.50**	**0.24**	**0.42**	**0.12**	
Acrylonitrile	0.010 U	0.010 U	0.010 U	0.010 U	1.2 U	0.010 U	0.010 U	0.010 U	0.010 U	0.010 U	
Bromobenzene	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.12 U	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.0012 U	
Bromodichloromethane	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.12 U	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.0012 U	
Bromoform	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.12 U	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.0012 U	
Bromomethane	0.0050 U	0.0050 U	0.0050 U	0.0050 U	0.60 U	0.0050 U	0.0050 U	0.0050 U	0.0051 U	0.0058 U	
n-Butylbenzene	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.12 U	0.0010 U	0.0010 U	**0.0014**	0.0010 U	0.0012 U	
sec-Butylbenzene	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.12 U	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.0012 U	
tert-Butylbenzene	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.12 U	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.0012 U	
Carbon tetrachloride	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.12 U	0.0010 U	0.0010 U	0.0010 U	0.00100 U	0.0012 U	
Chlorobenzene	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.12 U	0.0010 U	0.0010 U	0.0010 U	0.00100 U	0.0012 U	
Chlorodibromomethane	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.12 U	0.0010 U	0.0010 U	0.0010 U	0.00100 U	0.0012 U	
Chloroethane	0.0050 U	0.0050 U	0.0050 U	0.0050 U	0.60 U	0.0050 U	0.0050 U	0.0050 U	0.00510 U	0.0058 U	
2-Chloroethyl vinyl ether	0.050 U	0.050 U	0.050 U	0.050 U	6.0 U	0.0050 U	0.0050 U	0.0050 U	0.00510 U	0.058 U	
Chloroform	0.0050 U	0.0050 U	0.0050 U	0.0050 U	0.60 U	0.0050 U	0.0050 U	0.0050 U	0.00510 U	0.0058 U	
Chloromethane	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.120 U	0.0010 U	0.0010 U	0.0010 U	0.00100 U	0.0012 U	
2-Chlorotoluene	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.12 U	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.0012 U	
4-Chlorotoluene	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.12 U	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.0012 U	
1,2-Dibromo-3-chloropropane	0.0050 U	0.0050 U	0.0050 U	0.0050 U	0.60 U	0.0050 U	0.0050 U	0.0050 U	0.0051 U	0.0058 U	
1,2-Dibromoethane	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.12 U	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.0012 U	
Dibromomethane	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.12 U	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.0012 U	
1,2-Dichlorobenzene	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.12 U	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.0012 U	1.7
1,3-Dichlorobenzene	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.12 U	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.0012 U	0.30
1,4-Dichlorobenzene	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.12 U	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.0012 U	0.30
Dichlorodifluoromethane	0.0050 U	0.0050 U	0.0050 U	0.0050 U	0.60 U	0.0050 U	0.0050 U	0.0050 U	0.0051 U	0.0058 U	
1,1-Dichloroethane	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.12 U	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.0012 U	
1,2-Dichloroethane	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.12 U	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.0012 U	
1,1-Dichloroethene	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.12 U	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.0012 U	
cis-1,2-Dichloroethene	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.12 U	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.0012 U	
trans-1,2-Dichloroethene	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.12 U	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.0012 U	
1,2-Dichloropropane	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.12 U	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.0012 U	
1,1-Dichloropropene	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.12 U	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.0012 U	
1,3-Dichloropropane	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.12 U	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.0012 U	
cis-1,3-Dichloropropene	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.12 U	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.0012 U	
trans-1,3-Dichloropropene	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.12 U	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.0012 U	
2,2-Dichloropropane	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.12 U	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.0012 U	
Di-Isopropyl ether	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.12 U	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.0012 U	
Hexachlorobutadiene	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.12 U	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.0012 U	0.60

Please refer to notes on the last page of this table.

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Table 19-2 Catch Basin Sediment Chemical Analysis Results: VOCs
9030 NW St. Helens Road, Portland, Oregon

Sample Identification:	CB-A1 Upper	CB-A1 Lower	CB-A2 Upper	CB-A2 Lower	CB-A3 Upper	CB-A3 Lower	CB-B1 Upper	CB-B1 Lower	CB-B2 Upper	CB-B2 Lower	Toxicity Screening Level Value
Analyte	Concentrations in Milligrams per Kilogram (mg/kg)										mg/kg
Isopropylbenzene	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.12 U	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.0012 U	
p-Isopropyltoluene	0.0010 U	0.0010 U	0.0010 U	**0.013**	0.12 U	**0.0018**	**0.0039**	**0.0022**	**0.0065**	**0.0095**	
2-Butanone (MEK)	0.010 U	0.0100 U	0.0100 U	**0.024**	1.2 U	0.010 U	**0.21**	**0.012**	**0.099**	0.012 U	
Methylene chloride	0.0050 U	0.0050 U	0.0050 U	0.0050 U	0.60 U	0.0050 U	0.0050 U	0.0050 U	0.0051 U	0.0058 U	
4-Methyl-2-pentanone (MIBK)	0.010 U	0.010 U	0.010 U	0.010 U	1.2 U	0.010 U	**0.012**	0.010 U	**0.011**	0.012 U	
Methyl tert-butyl ether	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.12 U	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.0012 U	
Naphthalene	0.0050 U	0.0050 U	0.0050 U	0.0050 U	0.60 U	0.0050 U	**0.0055**	**0.0067**	0.0051 U	0.0058 U	
n-Propylbenzene	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.12 U	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.0012 U	
Styrene	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.12 U	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.0012 U	
1,1,1,2-Tetrachloroethane	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.12 U	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.0012 U	
1,1,2,2-Tetrachloroethane	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.12 U	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.0012 U	
1,1,2-Trichloro-1,2,2-trifluoro	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.12 U	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.0012 U	
Tetrachloroethene (PCE)	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.12 U	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.0012 U	0.50
1,2,3-Trichlorobenzene	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.12 U	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.0012 U	
1,2,4-Trichlorobenzene	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.12 U	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.0012 U	9.2
1,1,1-Trichloroethane	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.12 U	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.0012 U	
1,1,2-Trichloroethane	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.12 U	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.0012 U	
Trichloroethene (TCE)	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.12 U	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.0012 U	2.1
Trichlorofluoromethane	0.0050 U	0.0050 U	0.0050 U	0.0050 U	0.60 U	0.0050 U	0.0050 U	0.0050 U	0.0051 U	0.0058 U	
1,2,3-Trichloropropane	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.12 U	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.0012 U	
1,2,4-Trimethylbenzene	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.12 U	0.0010 U	**0.0013**	**0.0078**	0.0010 U	**0.0028**	
1,2,3-Trimethylbenzene	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.12 U	0.0010 U	0.0010 U	**0.0089**	**0.0069**	**0.0054**	
1,3,5-Trimethylbenzene	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.12 U	0.0010 U	0.0010 U	**0.0024**	0.0010 U	0.0012 U	
Vinyl chloride	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.12 U	0.0010 U	0.0010 U	0.0010 U	0.0010 U	0.0012 U	

1. Volatile Organic Compounds (VOCs) by EPA Method 5035/8260B.
2. Screening Level Values from Table 3-1, Portland Harbor Joint Source Control Strategy (DEQ/EPA, 2005).
3. Detectable concentrations are shown in **bold type**.
4. U = Analyte not present at or above the indicated laboratory practical quantification limit (i.e., Detection Limit).

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Table 22-1 – Reported Spills/Releases
9030 NW St. Helens Road, Portland, Oregon **Sheet 1**

Date	Data Source	Product Type	Estimated Product Quantity	How Release Occurred	How Release Addressed
5-Oct-90	BMC	Fuel	100-150 gallons	Tug PJ Brix at Brix Dock – Approximately 1,000 gallons of fuel accidentally pumped into city's sewer system when sewer line was mistakenly hooked up to fuel system. 100-150 gallons spilled into the river.	Not noted.
10-May-92	BMC/NRC	Diesel	50 gallons, 50' x 60' rainbow sheen	Tug Lewiston – Blow hole/unknown cause. Approximately 30 gallons of diesel spilled during fueling of the tug at Brix Maritime's slip.	Boomed material, using sorbent pads.
17-Jul-92	BMC	Diesel	1 gallon	Tug Chief – Approximately 1 gallon of diesel accidentally pumped into river at Brix Maritime's slip when bilge compartment flooded.	Not noted.
21-Apr-93	NRC	Diesel	<1 gallon, 20' x 30' sheen	Changing out fuel line on dock and a small amount of product was spilled into the water.	Booms deployed and sorbent pads used.
23-Sept-93	NRC/PHWP	Waste oil	1 gallon	Tug T. J. Brix – Equipment failure, hose leaked while off-loading waste.	Recovered materials with pads.
20-Jan-94	NRC	Diesel	Unknown	Tug Clarkston – Soft patch failure.	Booms deployed, all material contained.
9-Mar-95	NRC/PHWP	Hydraulic oil	<1 gallon	Mechanical failure, power steering hose broke on vehicle causing materials to release.	Spill contained and absorbed.
24-Jan-96	NRC/PHWP	Waste oil	0.5 gallons	Shop barge – Bilge pump/hose came off, residual oil dripped out	Secured release, applied absorbents, deployed boom
28-Mar-96	SPA	Diesel	Unknown	Diesel fuel spilled onto work deck and refueling dock.	Not noted.
23-Apr-96	NRC	Cable lube grease	(2) 5-gallon drums	Two 5-gallon drums were thrown into a dumpster, rain washed material residue from the drums into the water.	Buckets removed from dumpster, material contained, sorbents deployed.
19-Jun-96	SPA	Sheen	30 yards by 1 mile	*Source of spill unknown.*	U.S. Coast Guard determined sheen non-recoverable.
15-May-97	NRC/SPA	Lube oil	Sheen	Drips from lube oil transfer line valve soaked into soil and caused sheen as the tide rose at the FMC-CSR fuel facility.	Not noted.
22-Sep-97	PHWP/SPA	Silver sheen	100 yards x 100 feet area	In river adjacent to facility dock, cause not noted. *Source of spill unknown.*	Not noted.
7-Oct-97	PHMP/SPA/NRC	Sheen	300-400' long x 150' wide	Wide sheen near dock. *Source of spill unknown.*	Not noted.

Table 22-1 – Reported Spills/Releases
9030 NW St. Helens Road, Portland, Oregon **Sheet 2**

Date	Data Source	Product Type	Estimated Product Quantity	How Release Occurred	How Release Addressed
14-Oct-97	NRC	Sheen	Unknown	Tug Jim Moore – Sheen appeared around tug. Willamette River, Mile 5.5.	Boomed sheen.
12-Jan-98	BRIX/NRC/PHWP	Diesel	1 – 5 gallons	Work (Shop) Barge (BMC-13) at Foss mooring – Mechanical failure, oil/water separator disconnected, causing a small sheen.	Release secured, deployed booms and absorbent pads to recover sheen, contractor hired.
12-Jan-98	NRC/PHWP/SPA	Diesel	5 gallons/25 gallons	Work Barge (BMC-13) at Foss mooring – Oil/water separator line broke due to subfreezing conditions. Willamette River, Mile 6.	Separator shut off and line repaired, response contractor mobilized to scene.
16-Jan-98	BRIX/SPA	Oily water	3 gallons	Oily water at Foss moorings.	Not noted.
30-Sep-98	BRIX/NRC/SPA	Oil sheen	75 yards x 10 yards	Sheen observed in water. *Source of spill unknown.*	Spill contained with booms, responder mobilized. USCG determined sheen was unrecoverable (SPA).
23-Dec-98	BRIX/NRC/SPA	Waste oil/ bilge slops	5 gallons	Bilge water transfer hose from work barge to shore storage line ruptured when valve froze causing discharge to Willamette River at Foss mooring.	Contained with booms, spill responder mobilized to site.
23-Jan-99	BRIX/NRC/PHWP/SPA	Oil sheen	Unknown	Tug Sarah Brix at Foss mooring– Tug had been idle for long period, small sheen after start up, release likely due to leak from alley stuffing box.	Sheen stopped following initial startup and contained. Used absorbent pads.
07-Feb-00	BRIX/NRC	Diesel	2 – 5 gallons	Tug Lewiston at Foss Linnton fuel dock – Burp from sounding tube, cause unknown.	Booms applied, absorbents applied, material contained, recovered most of the fuel in the water.
24/29-May-00	BRIX/NRC	Bilge water	Unknown	Tug Joseph T at Foss docks – Bilge discharged because pump was not turned off.	Bilge pump turned off. Spill boomed and contained. Spill response contractor mobilized to site.
19-July-00	BRIX/NRC	Bilge water	Unknown	Foss dock – Pump not turned off.	Not noted.

Date	Data Source	Product Type	Estimated Product Quantity	How Release Occurred	How Release Addressed
8-Jul-02	BRIX/NRC/PHWP	Diesel	5 gallons	Tug Lewiston at Foss dock – Fuel overfill during refueling, releasing material into the water.	Booms and sorbent pads deployed prior to fueling and release and contained/ recovered material. Amended fuel transfer procedures to state "insure [sic] all sight glass valves are in full open position …"
21-Apr-03	BRIX/NRC	Oily bilge water	<2 gallons No.2-D /diesel/ hydraulic oil	Tug Joseph T at Foss moorings – Oily bilge water/diesel/hydraulic oil automatically pumped overboard due to mechanical failure.	Expanded bilge water containment system.
9-Sep-04	BRIX/NRC	Lube oil	2 gallons	Foss dock – Lube oil released to water due to overfilling (wrong) tank on vessel; personnel error. Mile 5.1.	Containment booms and absorbent pads deployed. Captain suspended two weeks; letter of reprimand.
26-June-05	BRIX	Vegetable base clarity oil	Couple of cups	Tug America near Foss Linnton dock – Mechanical error, leaking seal on port thruster unit	Not noted.

NOTES

1. All Product Quantity listed is assumed to be released into the water unless otherwise noted.
2. Information for this table is from five (5) sources:

SPA = Supplemental Preliminary Assessment Summary Report, Anchor Environmental, L.L.C. with Hahn and Associates, Inc., October 2000. See BRIX000748-001028.

PHWP = Portland Harbor RI/FS Programmatic Work Plan, Appendix E: Chemical Sources and Spill Records. Integral Consulting, Inc., 2004. See BRIXINHOUSE004464-004568.

NRC = National Response Center, Database Query http://www.nrc.uscg.mil/foia.html. 2008. See attached BRIXINHOUSE004799-004859; BRIXINHOUSE004462-004463.

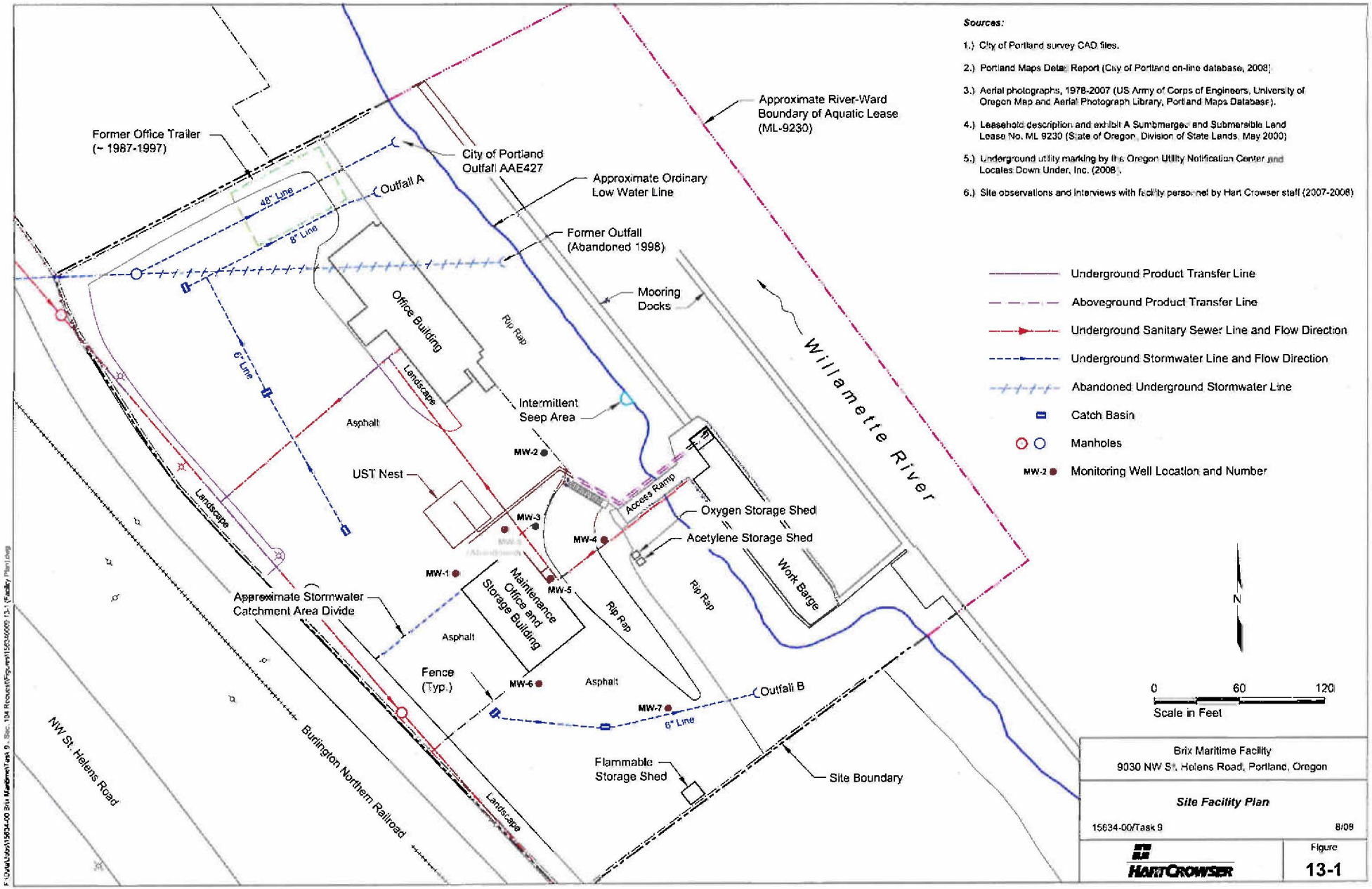
BMC = Stock and Asset Purchase Agreement, Schedule 2.1.22(i), "Brix Maritime Company Tug Fuel Spills 03/15/90—07/29/93," August 1993. See 00036061-6245.

BRIX = Brix Source Documents. See 00015150 – 53; 00015157-58; 00015164-65; BRIXINHOUSE004485; BRIXINHOUSE004527; 10001170-71; 00036159; 00015218; 10000203-04; BRIXINHOUSE004460-61; 00014473; 00014494; 00014495; 00014497-98; 00014504-05; 00015219 and 00015155-00015156.

3. Table 22-1 is a compilation of observed spills for which there is some affirmative indication that (1) the spills occurred in the Investigation Area, and (2) the spills were somehow associated with (if not attributable to) the Property or Brix activities. Many of the spills summarized in Table 22-1 were of small quantities of product, typically less than five gallons. Of the spills listed, several were releases that EPA ascribed to Brix activities, even though written records do not identify the source of those releases. To the best of its knowledge, Brix does not believe that there is any affirmative indication that this subset of spills can be attributed to the Property or Brix activities.

4. As noted above, Table 22-1 incorporates data from multiple information sources. The accuracy of Table 22-1, therefore, is limited by the reliability of the source information. Where more than one source existed for a particular spill, Brix used best efforts to reconcile any inconsistencies associated with the source information.

Figures



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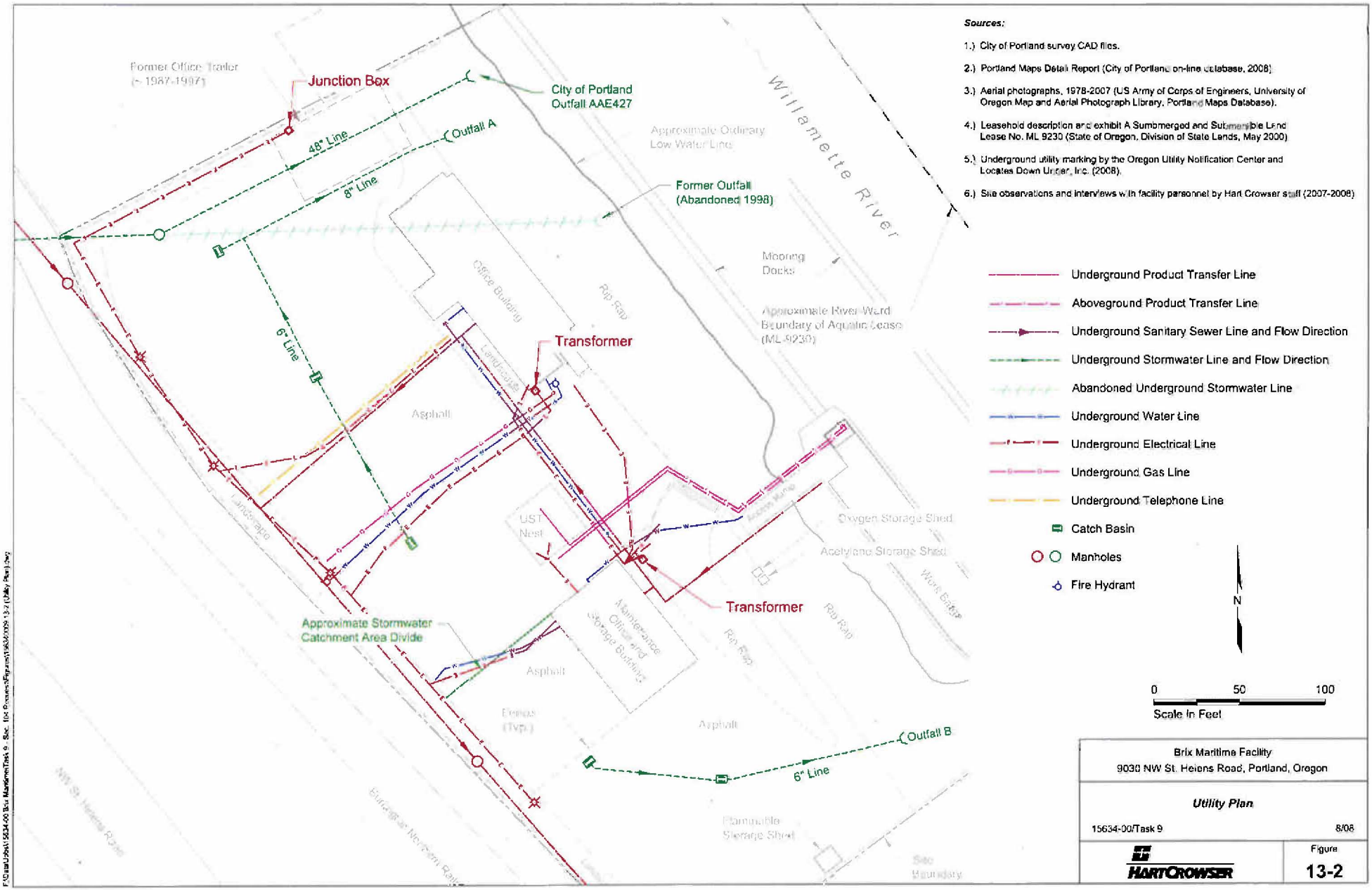

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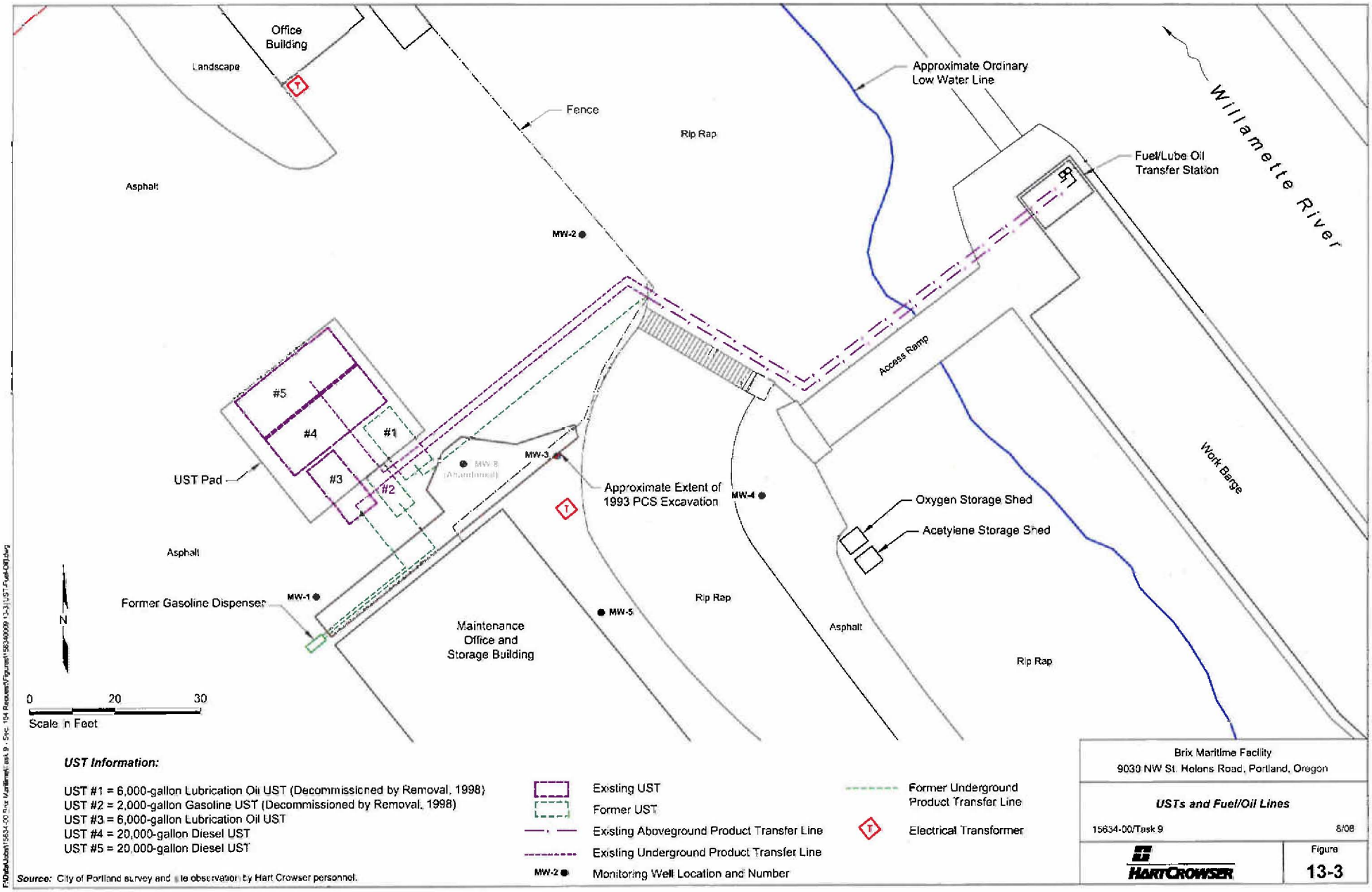

UST Information:

UST #1 = 6,000-gallon Lubrication Oil UST (Decommissioned by Removal, 1998)
UST #2 = 2,000-gallon Gasoline UST (Decommissioned by Removal, 1998)
UST #3 = 6,000-gallon Lubrication Oil UST
UST #4 = 20,000-gallon Diesel UST
UST #5 = 20,000-gallon Diesel UST

Existing UST
Former UST
Existing Aboveground Product Transfer Line
Existing Underground Product Transfer Line
MW-2 Monitoring Well Location and Number
Former Underground Product Transfer Line
Electrical Transformer

Source: City of Portland survey and site observation by Hart Crowser personnel.

Brix Maritime Facility
9030 NW St. Helens Road, Portland, Oregon

USTs and Fuel/Oil Lines

15634-00/Task 9 8/08

HARTCROWSER

Figure 13-3

P:\Data\Jobs\15634-00 Brix Maritime\Task 9 - Svc. 154 Reports\Figures\15634009 13-3 UST-Fuel-Oil.dwg

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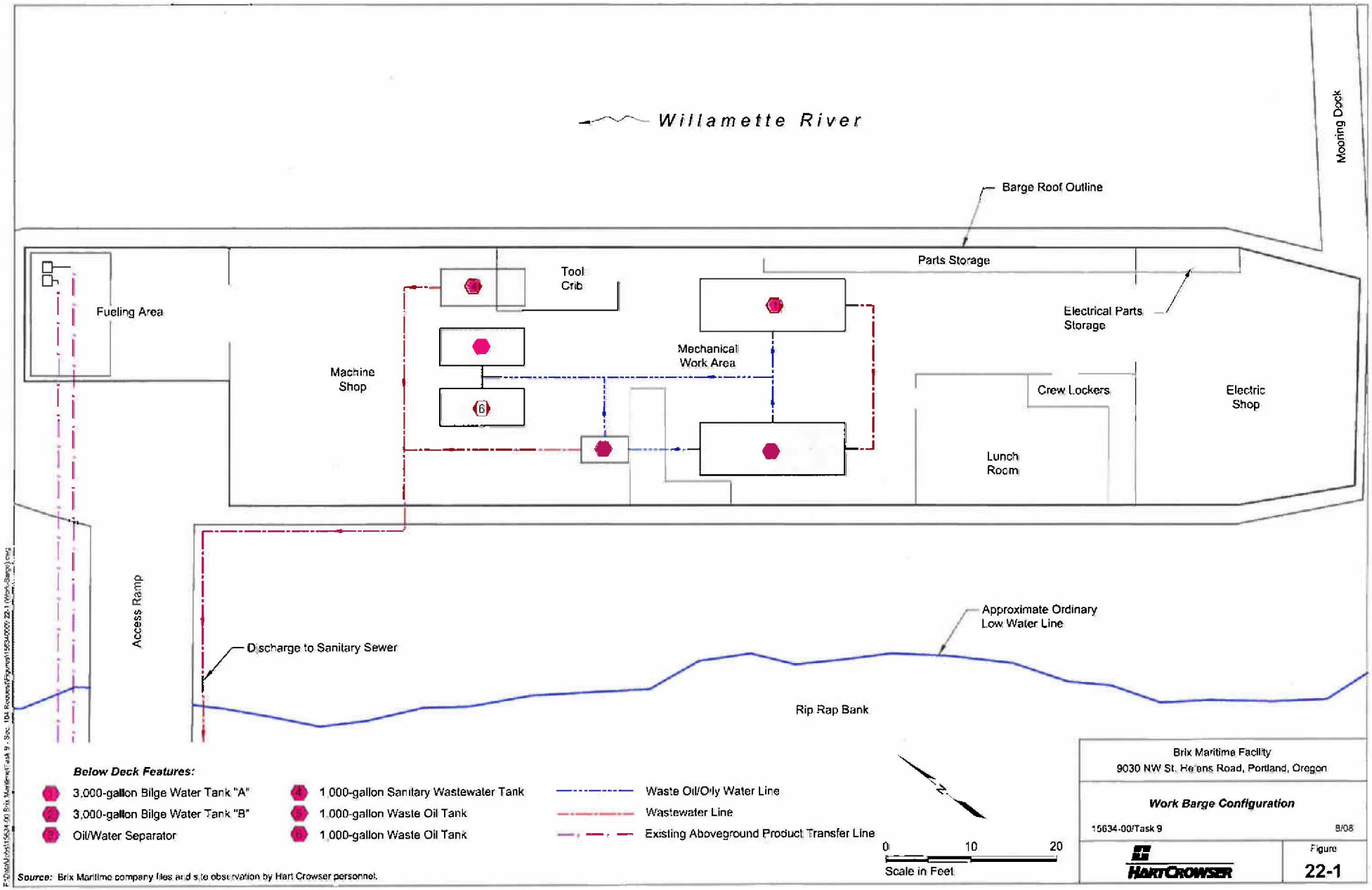

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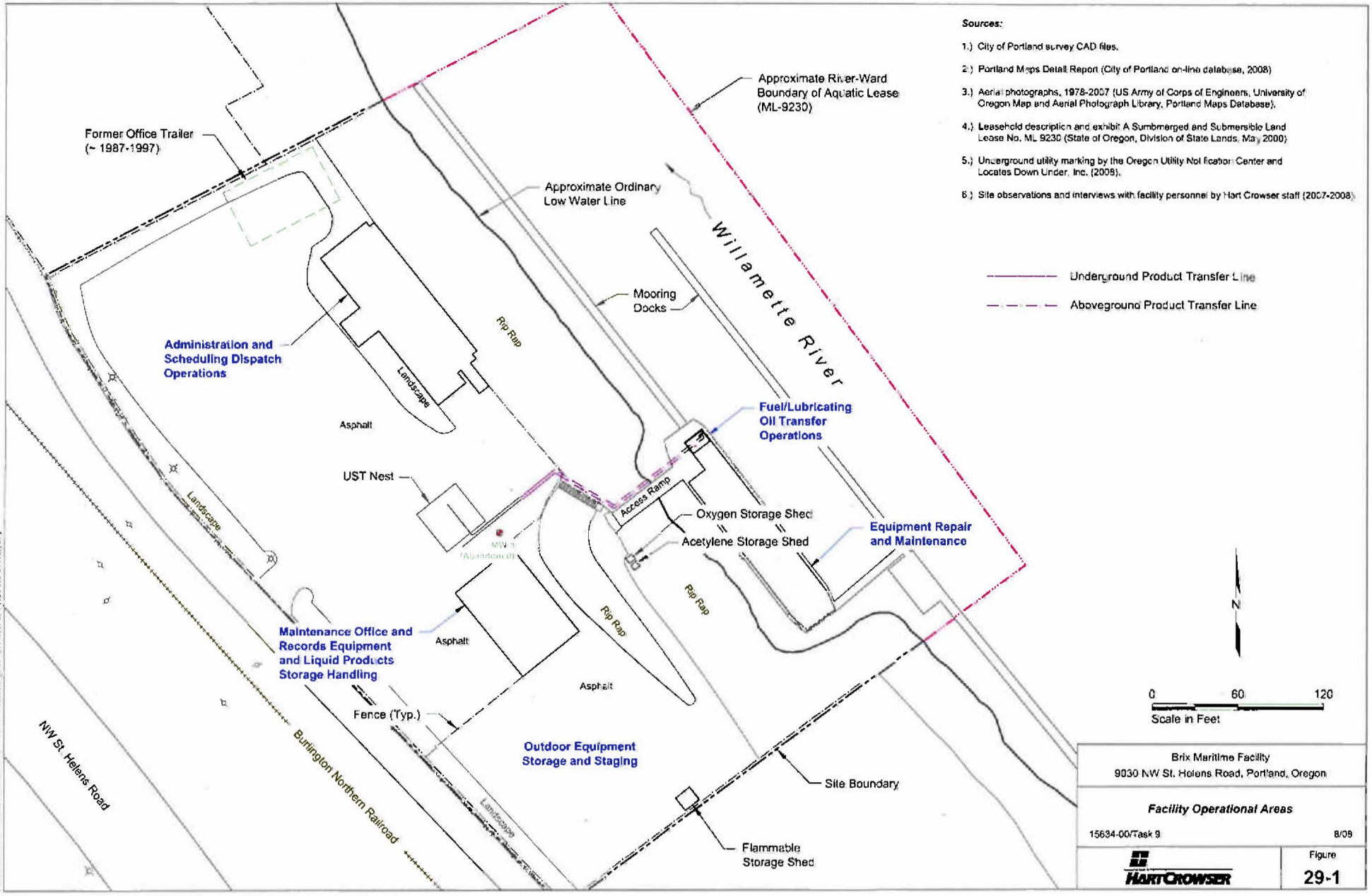

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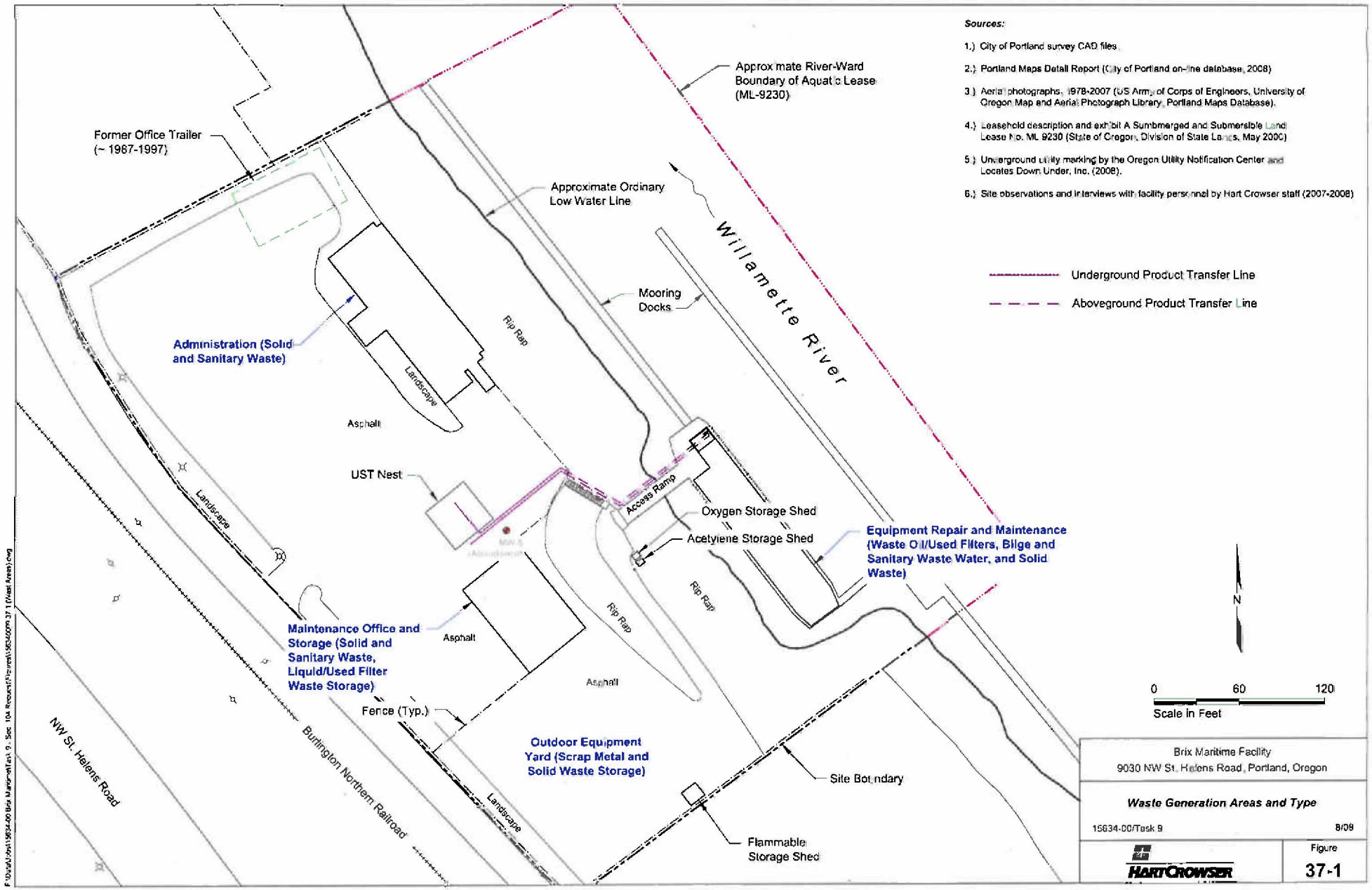

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Privilege Log for Brix Maritime Company's Responses to EPA's 104(e) Information Requests

Begdoc#	Enddoc#	Pageamt	Docdate	Author	Recips	Doctype	Annotota
16546	16546	1	5/4/1994	Williamson, Frank	Campbell, Pete Reed, Bruce A. Ritchie, Dick Smith, Evart Jon	Memorandum	Privileged, Attorney Work Product and/or Client Communications.
14110	14110	1	5/14/2004	Williamson, Frank H.	Sanborn, Stuart	Fax Cover / Transmittal	Privileged, Attorney Work Product and/or Client Communications.
14113	14113	1	10/6/2004	Sanborn, Stuart	Williamson, Frank H.	Fax Cover / Transmittal	Privileged, Attorney Work Product and/or Client Communications.
14120	14120	1	00/00/0000	Sanborn, Stuart	Williamson, Frank H.	Fax Cover / Transmittal	Privileged, Attorney Work Product and/or Client Communications.
14123	14123	1	5/14/2004	Sanborn, Stuart	Williamson, Frank H.	Fax Cover / Transmittal	Privileged, Attorney Work Product and/or Client Communications.
15346	15346	1	6/2/2000	Williamson, Frank H.	Johnson, Larry	EMail	Privileged, Attorney Work Product and/or Client Communications.
15351	15351	1	2/15/2000	Williamson, Frank H.	Templeton, David (Anchor Environmental)	EMail	Privileged, Attorney Work Product and/or Client Communications.
41625	41625	1	4/20/2007	Ilg, Donna	Williamson, Frank	EMail	Privileged, Attorney Work Product and/or Client Communications.